

# Citizen Participation and Public Petitions Committee

6th Meeting, 2023 (Session 6), Wednesday  
19 April 2023

## PE2001: Withdraw the ‘Supporting transgender young people in schools’ guidance from Scottish schools

<b>Petitioner</b>	E Phillips on behalf of Safeguarding Our Schools Scotland
<b>Petition summary</b>	Calling on the Scottish Parliament to urge the Scottish Government to withdraw the 'Supporting transgender young people in schools: guidance for Scottish schools' resource, and await the outcome of the Cass Review before developing a new resource.
<b>Webpage</b>	<a href="https://petitions.parliament.scot/petitions/PE2001">https://petitions.parliament.scot/petitions/PE2001</a>

### Introduction

1. This is a new petition that was lodged on 2 February 2023.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee’s consideration of the petition and can be found at **Annexe B**.
4. While not a formal requirement, petitioners have the option to collect signatures on their petition while the petition remains under consideration. At the time of writing, 4,411 signatures have been received on this petition.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered. A response has been received from the Scottish Government and is included at **Annexe C** of this paper.
6. A submission has been provided by the petitioner. This is included at **Annexe D**.

## Action

The Committee is invited to consider what action it wishes to take on this petition.

**Clerk to the Committee**

## Annexe A

# PE2001: Withdraw the 'Supporting transgender young people in schools' guidance from Scottish schools

## Petitioner

E Phillips on behalf of - Safeguarding Our Schools - Scotland

## Date lodged

2 February 2023

## Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to withdraw the 'Supporting transgender young people in schools: guidance for Scottish schools' resource, and await the outcome of the Cass Review before developing a new resource.

## Previous action

Safeguarding Our Schools Scotland has written to the Cabinet Secretary for Education and Skills, Shirley Anne Somerville, to highlight our concerns and ask that this guidance be withdrawn.

## Background information

Dr Cass said in her [interim report](#) on how to improve services, provided by the NHS, for children and young people experiencing issues with their gender identity, "it is important to acknowledge that it is not a neutral act" to socially transition a child, there are different views on the benefits versus the harms and 'better information is needed about the outcomes'.

The [school guidance](#) encourages teachers to affirm the social transition of children who say they are trans, to use their chosen pronouns and to avoid misgendering, alongside changing pupils' names and their sex on official school records. We are concerned about this affirmation first approach and the risks it poses to vulnerable children. Emerging evidence advises against this approach and recommends 'watchful waiting'.

Referrals to the Sandyford Clinic have rapidly increased from 37 in 2013 to almost 300 in 2018. In our view, there is little doubt that the schools guidance and affirmation first approach will contribute to further increases in referrals.

## Annexe B

The logo for SPICe (The Information Centre) is a purple rounded rectangle. The text 'SPICe' is in white, with 'The Information Centre' and 'An t-Ionad Fiosrachaidh' in a smaller white font to its right.

**The Information Centre**  
An t-Ionad Fiosrachaidh

# Briefing for the Citizen Participation and Public Petitions Committee on petition PE2001: 'Withdraw the 'Supporting transgender young people in schools' guidance from Scottish schools, E Phillips on behalf of - Safeguarding Our Schools - Scotland

## Brief overview of issues raised by the petition

This petition seeks the withdrawal of the Scottish Government's ['Supporting transgender young people in schools: guidance for Scottish schools'](#).

The petitioners are concerned that affirming social transition in school will lead to an increase in young people making referrals to gender identity services.

### **The guidance**

The guidance was published on 12 August 2021. It is non-statutory and is aimed at helping all schools in Scotland (education authority, grant-aided and independent schools) to support trans young people. It provides practical advice, information and signposts to age and stage appropriate resources. However, it is for schools to ensure that their policies, practices and information take full account of the legal requirements of the relevant legislation.

The petitioners argue that the guidance:

“encourages teachers to affirm the social transition of children who say they are trans, to use their chosen pronouns and to avoid misgendering, alongside changing pupils' names and their sex on official school records.

The guidance includes a section on changing name, sex and pronouns (page 22). It states:

“Some young people who are transgender change their name and/or pronouns, while others don't. Teachers should respect a young person's wishes and use the name/pronoun they have asked to be used. If you are not sure what name/pronoun they use, ask them in private at a suitable time. It should be noted that anyone can change their name informally as long as it is not for a criminal purpose.”

The guidance provides advice on how to record a pupil's name change, depending on whether it is an informal or formal name change.

For an informal name change, it doesn't have to be changed on the pupil's official school record. A record could be kept to improve consistency in staff practice, via [SEEMiS](#) using the 'Known As' box. This would follow a discussion with the pupil that they would like all teachers to be aware of their name change.

For a formal name change, where the school record is changed with the new name and sex, the pupil, with their parents/carers if under 16, should write to the school to instruct this. The guidance states: “Schools do not need to ask for anything else as a name change can be made at any time in Scotland. Changing the recorded sex in SEEMiS has no effect on a young person's legal sex.”

A young person or their parent can also request a legal name change at the National Records of Scotland. However, this is not required to amend the pupil's school record: “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.”

The guidance recommends that consent is obtained from those with parental responsibilities for young people under 16 and that bringing parents into this discussion at “as early a point as possible would be helpful.”

On using pronouns, the guidance states:

“Using particular pronouns is an indication of someone's gender identity. Staff should take care not to 'out' a young person by using a pronoun which differs from the one which the young person usually uses in public. Similarly, staff and young people should avoid misgendering a transgender young person. Using the correct pronouns is the right and respectful approach to including transgender young people. Where the wrong pronoun is accidentally used they should simply apologise and try not to do this in the future.”

It further advises:

- If supporting a trans young person, to be led by them, checking what pronoun and/or name should be used and which circumstances. This may change over time and is part of the process of their transition.
- Staff and young people should avoid ‘deadnaming’, which is when someone intentionally calls a trans young person by their previous name. This can be distressing for the young person or viewed as bullying. If someone accidentally calls a person by their previous name, “they should simply apologise and try not to do this in the future.”

## **The Cass Review**

The petition refers to the [Cass Review](#). This was commissioned by NHS England and NHS [Improvement](#) in Autumn 2020 to make recommendations about the services provided by the NHS to children and young people who are questioning their gender identity or experiencing gender incongruence.

The [Interim report](#) (Feb 2022) said:

- The rapid increase in the number of children requiring support and the complex case-mix means that the current clinical model, with a single national provider, is not sustainable in the longer term.
- More needs to be known about the population being referred and outcomes. There has not been routine and consistent data collection, which means it is not possible to accurately track the outcomes and pathways.

- There is lack of consensus and open discussion about the nature of gender dysphoria and therefore about the appropriate clinical response.
- Because the specialist service has evolved rapidly and organically in response to demand, the clinical approach and overall service design has not been subjected to some of the normal quality controls that are typically applied when new or innovative treatments are introduced.
- A fundamentally different service model is needed which is more in line with other paediatric provision, to provide timely and appropriate care for children and young people needing support around their gender identity. This must include support for any other clinical presentations that they may have.

On social transition, the interim report said:

“Social transition – this may not be thought of as an intervention or treatment, because it is not something that happens within health services. However, it is important to view it as an active intervention because it may have significant effects on the child or young person in terms of their psychological functioning. There are different views on the benefits versus the harms of early social transition. Whatever position one takes, it is important to acknowledge that it is not a neutral act, and better information is needed about outcomes.”

### **Gender identity services for young people**

The petition also refers to the increased number of referrals to the Sandyford Clinic. It is suggested that the ‘affirmation first approach’ used in the school guidance will contribute to a further increase in referrals.

An FOI response is included in the petition which shows the increase in referrals to Sandyford, from [37 in 2013 to almost 300 in 2018](#).

Sandyford Clinic is the only provider of gender identity services for young people in Scotland. Its [website](#) provides the following:

- For the young people’s service initial appointments are currently offered to those who registered with the service in May 2019 (that is a waiting period of over 3 years for an initial appointment)
- In 2021 there were 499 young person referrals
- In 2022 there were 429 young person referrals.



The Scottish Government provided an [update on Gender Identity Services in Scotland](#) (21 November 2022), in response to issues raised in the Equalities, Human Rights and Civil Justice Committee's [Stage 1 Report on the Gender Recognition Reform \(Scotland\) Bill](#) (6 October 2022).

The response referred to:

- [NHS gender identity services: strategic action framework 2022-2024](#) (December 2021)
- The establishment of the [National Gender Identity Healthcare Reference Group](#) to oversee progression and implementation of actions set out in that December 2021 framework.

The Scottish Government also said that all work to improve gender identity services would remain fully based on relevant best practice guidelines as well as national and international evidence.

Further that:

“It will also be fully cognisant of ongoing developments in both the rest of the UK and internationally, including the ongoing NHS England commissioned independent review of gender identity services for children and young people (the ‘Cass Review’). As it has been remarked upon by Committee members it may be helpful to note that Scottish Government has repeatedly stated, and I will reiterate again, that the interim and final findings of the Cass review will be – and are being – closely considered both by Scottish Government and NHS Scotland.”

**Nicki Georghiou**  
**Senior Researcher**  
25/01/2023

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at [spice@parliament.scot](mailto:spice@parliament.scot)

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

## Annexe C

### Cabinet Secretary for Education and Skills submission of 9 February 2023

#### PE2001/A – Withdraw the ‘Supporting transgender young people in schools’ guidance from Scottish schools

Thank you for your e-mail of 5 January 2023 on behalf of the Citizen Participation and Public Petitions Committee regarding Petition PE2001 seeking to withdraw the 'Supporting transgender young people in schools' guidance from Scottish schools. I am replying as this guidance falls within my portfolio of responsibilities.

The Scottish education system is founded on the principles of equity and excellence for all learners and it must support everyone to reach their full potential. The Scottish Government is clear guidance to support transgender young people in schools is needed. Research tells us they have poorer experiences at school than other pupils, they experience significantly more bullying, are likely to have poorer mental health and wellbeing, and do not achieve similar educational outcomes as their peers. The guidance supports our schools to implement and deliver a safe and supportive environment, regardless of gender, and ensure that everyone's rights are respected. The rights of all pupils, including those of transgender pupils and girls, are respected and protected. Children's rights, including their right to privacy, are fundamental foundations of a child's education. The guidance offers practical measures for schools to ensure all children's rights are respected, and links to and draws upon the guidance on the Equality Act which is already in place to support schools in fulfilling their duties. Development of the guidance for schools was informed by key stakeholder groups, including LGBT organisations, women's groups, education organisations and teaching unions.

The petitioners state the guidance “*encourages teachers to affirm the social transition of children who say they are trans*”. It is wrong to claim that the guidance recommends that young people are encouraged to socially transition. That is an individual's choice. The guidance is clear,

schools should support all young people, including those who are considering their identity.

With reference to the Cass Review, commissioned by NHS England, this only extends to current and future services offered by NHS England. The Cass Review is not considering or reviewing clinical services or pathways provided by NHS Scotland. The Scottish Government and NHS Scotland will closely consider the ongoing findings of the Cass Review within the context of NHS Scotland services, as they become available. This is consistent with our broader commitment to improve access to, and delivery of, NHS gender identity services.

I hope the Committee finds this letter helpful.

## Annexe D

### Petitioner submission of 3 April 2023

### PE2001/B – Withdraw the ‘Supporting transgender young people in schools’ guidance from Scottish schools

Since submitting our petition, we have obtained further information that we believe will offer a significant addition to the information already provided.

#### **1. EHRC Technical, Guidance to Schools- Current Revision Work**

The Scottish Government guidance relies heavily on the [EHRC Technical Guidance to Schools](#) (p.58/59) for its position that pupils who announce a trans or non-binary identity should immediately and unquestioningly be supported in any social transition, with or without parental awareness (p.14, 35, 39, 41/42). However, the EHRC Technical Guidance is now out of date, with the webpage stating:

*“Updated 3 November 2022:*

*This guidance is out of date. The policy areas covered are evolving and the guidance is under review.”*

We have had sight of correspondence from the Chair of the Equality and Human Rights Commission (EHRC) to the Bayswater Support Group, which confirms it is the section on Gender Reassignment which is being revised. In one letter, dated 21 November 2022, the Chair states:

*“The debate on gender identity continues to evolve, not least as concepts are tested in the courts. We recognise that our 2014 guidance has become outdated in terms of tone, language, and some specific policy areas, which no longer comprehensively reflect our position, which has evolved in line with case law. We are now clearer that failing to affirm a young person’s new name or pronouns does not immediately constitute unlawful discrimination, and we would set out more fully the need to consider the child’s age and developmental stage, any coexisting conditions, or factors (for example, neurodiversity or same-sex attraction, as you say), medical advice, and of course the views of parents.”*

In a further letter, dated 23 November 2023, the Chair provides clarification about the status of a non-binary identity within the Protected Characteristic of Gender Reassignment:

*“In terms of your question about the protections for non-binary people, you are right that this has not been fully tested in the courts. There has so far been a single employment law case (Taylor v Jaguar Land Rover, 1304471/2018) which found that an individual who identified as non-binary did fall within the protected characteristic of gender reassignment. However, that decision was very specific to its facts within an employment context and was made by an employment tribunal and so is not binding on other courts. It is difficult to form a view from this case as to whether pupils identifying as non-binary would fall under the protected characteristic of gender reassignment. Even if they do, it does not automatically follow that the refusal of a school to adopt the pronouns as requested by a child would necessarily constitute discrimination. There are important contextual factors that schools will need to consider in these decisions, including in relation to safeguarding, bullying, and the impacts on the education and wellbeing of all pupils and students.”*

The Scottish Government Guidance is now not in line with the evolving EHRC position, and their inclusion of the EHRC Technical Guidance without caveat is out of step with the EHRC’s current views.

## **2. Use of Statistics**

Page 38 of the Scottish Government Guidance shows several statistics around “trans youths with “supportive parents” vs those with “unsupportive parents”. The independent policy collective analysis group, MurrayBlackburnMackenzie (MBM) have published a blog questioning the use of these statistics.

Source: <https://murrayblackburnmackenzie.org/2021/08/19/use-of-statistics-in-the-scottish-government-publication-supporting-transgender-pupils-in-schools/>

The statistics were drawn from the 2012 Canadian TransPulse survey which looked at a sample of trans identified young people aged 16-24. MBM have raised several concerns around the suitability for the inclusion of these statistics by the Scottish Government, including:

*“The Trans PULSE survey gathered all its data in a single snapshot and so does not allow for causal inferences to be drawn. In a separate paper, its co-authors state that findings from the survey ‘must be interpreted cautiously’ (Rotondi and Bauer, 2011). The emphatic*

*presentation of figures from the report by the Scottish Government as generalised statements breaches that advice.”*

And

*“To produce statistical findings generalisable to a wider population, data has to be drawn from a random sample of a relevant population and reported with appropriate estimates for the margin of error, which will increase as the sample size falls. This study therefore does not provide any basis for making robust estimates for effects beyond the immediate group involved in the study. Although a separate report from the Trans PULSE project clarifies: ‘all statistics presented are generalizable to the population of networked trans people in Ontario (those who know at least one other trans person’ (Sheim and Bauer, 2015: 1), in the absence of random sampling even this claim is questionable. There is no basis at all for assuming its findings will predict experiences with any accuracy for Scottish school children aged fifteen years or under.”*

The use of these statistics within the Scottish Government guidance is, in our view, unsafe and lends to the message that schools must work to move parents who wish to take a more cautious approach instead of immediately supporting their child’s social transition, from their perceived “unsupportive” position to a “supportive” one.

### **3. Mermaids**

The Scottish Government guidance signposts schools to the charity Mermaids on pages 40 and 63. Mermaids are currently under investigation by the [Charity Commission for England and Wales](#). This is in response to serious safeguarding concerns around the charity.

We have provided a dossier to the Charity Commission as part of its investigation. This dossier has also been shared with the former Cabinet Secretary for Education, Shirley-Anne Somerville, with a request that the Scottish Government remove reference to Mermaids as a precautionary measure as has happened in England and other areas, for example, NHS Lothian. This request was refused by Ms Somerville.

The dossier makes clear the safeguarding risks around Mermaids which schools may or may not be aware of.

We have also received an impact statement from a parent with personal experience of the guidance and how it directly impacted her child and family.

This statement can be found on the SOS Scotland Website - <https://sosscotland.com/testimonies>

Here is a direct copy from the website:

<https://img1.wsimg.com/blobby/go/03c7cf6b-6a1f-4df0-9b77-b71108ce59e5/downloads/IS.pdf?ver=1680709609122>