

# Citizen Participation and Public Petitions Committee

18th Meeting, 2023 (Session 6), Wednesday  
6 December 2023

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

**Lodged on** 2 February 2023

**Petitioner** E Phillips on behalf of Safeguarding Our Schools Scotland

**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.

**Webpage** <https://petitions.parliament.scot/petitions/PE2001>

### Introduction

1. The Committee last considered this petition at its meeting on [19 April 2023](#). At that meeting, the Committee agreed to write to COSLA, the National Gender Identity Clinical Network for Scotland, LGBT Youth Scotland, the Scottish Trans Alliance, Connect (the Scottish Parent Teacher Council), the National Parent Forum of Scotland, and the Equalities and Human Rights Commission.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee’s last consideration of this petition is at **Annexe B**.
3. The Committee has received new responses from LGBT Youth Scotland, Scottish Trans, the National Gender Identity Clinical Network for Scotland, Equalities and Human Rights Commission, and the Petitioner, which are set out in **Annexe C**.
4. A request to provide the Committee with a written submission has been received from For Women Scotland.

5. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
6. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.
7. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).
8. Every petition collects signatures while it remains under consideration. At the time of writing, 4,879 signatures have been received on this petition.

## Action

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

### **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 Febraury 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

### Extract from Official Report of last consideration of PE2001 on 19 April 2023

**The Convener:** PE2001, which has been lodged by E Phillips on behalf of Safeguarding Our Schools Scotland, calls 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.

In her response to the petition, the then Cabinet Secretary for Education and Skills, Shirley-Ann Somerville, stated that:

“Development of the guidance for schools was informed by key stakeholder groups, including LGBT organisations, women’s groups, education organisations and teaching unions.”

The cabinet secretary also suggested that,

“It is wrong to claim that the guidance recommends that young people are encouraged to socially transition.”

Her response notes that,

“the Cass Review ... only extends to current and future services offered by NHS England”,

but she states that,

“The Scottish Government and NHS Scotland will closely consider the ongoing findings of the ... Review within the context of NHS Scotland services”.

The committee has also received a submission from the petitioner that highlights that the Equality and Human Rights Commission is reviewing its technical guidance for schools with regard to evolving policy on issues of gender identity. The petitioner also raises concerns about the statistics that are used in the Scottish Government’s guidance and the organisations that are signposted as part of the guidance, as well as highlighting an impact statement from a parent with personal experience of how the guidance subsequently impacted on their family.

The petition raises some important issues. Do members have any suggestions as to how we might seek to proceed?

As there are no suggestions from members, I am minded to suggest that we write to some stakeholders who would be able to help inform our understanding, including the Convention of Scottish Local Authorities, the National Gender Identity Clinical

Network for Scotland and LGBT Youth Scotland. Are there any other suggestions from colleagues to add to that list?

**Alexander Stewart:** Those organisations are all very important, but I think that we also need to talk to the Scottish Trans Alliance, because it has a role to play in all of this. We can get some views from the National Parent Forum of Scotland and from Connect—formerly the Scottish Parent Teacher Council—as well.

It might also be useful for us to write to the Equality and Human Rights Commission to seek information on the review of the technical guidance for schools in Scotland. As you identified, convener, the situation is not the same south of the border and we need to look at what we are doing here in Scotland itself, so that would be useful.

**The Convener:** I am aware that there is considerable interest in the petition. Are colleagues content that we progress it by contacting those various organisation for their views?

**Members** *indicated agreement.*

## Annexe C

# LGBT Youth Scotland submission of 16 May 2023

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

LGBT Youth Scotland is the national charity for LGBTQ+ young people. We believe Scotland should be a place where all young people can thrive and flourish. We work alongside young people, supporting them through the provision of youth work, and amplifying their collective voices to influence change.

Our response is based on 17 years of working in the field of education and supporting trans young people through the provision of youth work, as well as national research, based on over 1,200 LGBTQ+ young people (of which 49% of participants identified as transgender).

**We do not agree with the petition’s proposal** 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*”.

‘Supporting Transgender Young People in Schools: Guidance for Scottish Schools’ (referred to hereafter as ‘the guidance’) is a vital resource for pupils and schools. Its removal would be detrimental to the wellbeing of trans young people and leave teachers and schools without national guidance to inform and support their decisions.

### **Need for the Guidance**

LGBT Youth Scotland undertakes a nationwide survey every five years to capture an overview of how young Scottish people are experiencing life as an LGBTQ+ person. The most recent iteration ‘Life in Scotland for LGBT Young People 2022’ was published in April 2022<sup>1</sup>. A subsequent report that specifically examines LGBTQ+ young people’s experiences

---

<sup>1</sup> Cronie, K., (2022) Life in Scotland for LGBT Young People. LGBT Youth Scotland. Available online: [www.lgbtyouth.org.uk/media/2712/life-in-scotland-for-lgbt-young-people-2022-e-use.pdf](http://www.lgbtyouth.org.uk/media/2712/life-in-scotland-for-lgbt-young-people-2022-e-use.pdf)

of education 'Life in Scotland for LGBT Young People Education Report' was published earlier this year<sup>2</sup>. Below is a summary of key data related to trans young people's experiences linked to education:

- The percentage of respondents who are aware of transphobic bullying steadily increased over the last 15 years from 26% in 2007 to 69% in 2022<sup>3</sup>.
- 61% of trans participants said they were not confident to report homophobic/biphobic bullying in school; this compared to 48% of non-trans participants<sup>4</sup>.
- Unpublished data has also identified that 66% of trans participants experienced suicidal thoughts and/or actions and 94% of trans participants reported having experienced one or more mental health condition or behaviour in the last year.

The guidance includes content on addressing bullying behaviour, as well responding to incidents as they occur. Schools and teachers provide an essential role in supporting all young people's wellbeing, this resource is therefore a key tool to ensure that trans young people are effectively supported.

### **Development of the Guidance**

The process to develop the guidance was rigorous and involved key national bodies in the field of education in Scotland.

The guidance was published in August 2021 following a consultation process with:

- The Association of Directors of Education Scotland
- Children in Scotland
- The Convention of Scottish Local Authorities (COSLA)
- Education Scotland
- Engender
- LGBT Youth Scotland
- The National Parent Forum of Scotland
- Rape Crisis Scotland
- Sport Scotland

<sup>2</sup> LGBT Youth Scotland. 2023. Life in Scotland for LGBT young people: Education Report, 2023. Available online: [www.lgbtyouth.org.uk/media/3160/lis-education-report-2023.pdf](http://www.lgbtyouth.org.uk/media/3160/lis-education-report-2023.pdf)

<sup>3</sup> Cronie, K., (2022) Life in Scotland for LGBT Young People. LGBT Youth Scotland. Available online: [www.lgbtyouth.org.uk/media/2712/life-in-scotland-for-lgbt-young-people-2022-e-use.pdf](http://www.lgbtyouth.org.uk/media/2712/life-in-scotland-for-lgbt-young-people-2022-e-use.pdf)

<sup>4</sup> *Ibid*



- Stonewall Scotland
- Scottish Trans

### **Evidence of Impact**

As part of our LGBT Charter programme<sup>5</sup>, we asked teachers directly: “How does your school make use of Scottish Government's ‘Supporting Transgender Young People – Guidance for Schools in Scotland’?” responses included:

- We use it to help identify best practice for supporting trans young people.
- Our Guidance Team use it for reference.
- This guidance was used to help create school policy. This guidance is also used by staff supporting young people.
- Used as guidance when staff are approached by a pupil who identifies as transgender to inform our decision making. Used as guidance when planning school residential trips.
- It is referred to by our pupil support teachers when dealing with trans young people and their personal circumstances.
- It has also given us confidence that we are following procedures.

### **No Change in Legislation or Policy**

The guidance reflects duties that are placed upon education providers by the Equality Act 2010. The advice provided was developed based on ‘Getting it Right for Every Child’, which promotes integrated working and partnership between professionals and families to provide the right help for a child or young person at the right time<sup>6</sup>.

Detailed information on the legislative framework that underpins the guidance is on page 57 and includes links to:

- The Scottish Curriculum/ Curriculum for Excellence
- Improving Gender Balance and Equalities in Education
- Getting it Right for Every Child (GIRFEC)

---

<sup>5</sup> The LGBT Charter is a straightforward programme that enables organisations and schools to proactively include LGBTQ+ people in every aspect of their work, protecting staff and providing a high quality service to young people. For more information, see here:

<https://www.lgbtyouth.org.uk/the-lgbt-charter/>

<sup>6</sup> Available online: [www.gov.scot/policies/girfec/](http://www.gov.scot/policies/girfec/)

- The United Nations Convention on the Rights of the Child (UNCRC)
- The Equality Act 2010 (including exceptions outlined in the law)
- Data Protection legislation
- The Education (Additional Support for Learning) (Scotland) Act 2004, The Offences (Aggravation by Prejudice) (Scotland) Act 2009,
- The Age of Legal Capacity (Scotland) Act 1991

The legislative underpinning within the guidance is therefore clear. It has been established that there are legal protections for trans young people within school settings and there has been no change in legislation since this guidance was published.

### **Misunderstanding Regarding an ‘Affirmative Approach’**

The petitioner states that the guidance takes an: ‘affirmation first approach’. We agree with our colleagues at Scottish Trans that this is perpetuation of a misunderstanding as addressed in their response for the committee.

The approach outlined in the guidance is instead linked to GIRFEC using a children and young people’s rights approach. Specifically, it highlights that it is important that trans young people’s views are listened to, and that decision made are in the best interest of the child or young person.

### **No Links to Increased Medical Referrals**

The petitioner states that “there is little doubt that the schools guidance and affirmation first approach will contribute to further increases in referrals” (to gender identity services) and they site increases in referrals to the Sandyford Clinic.

There have been significant increases in children and young people accessing the Sandyford Gender Identity Service in Scotland for under 18s. However, it’s important to put this into context, when compared to the wider under 18s population, Scottish Trans estimate that just 0.1% of young people are accessing this service. The increase in referrals are therefore most likely an indication that trans young people are coming out earlier due to societal change. Our research has shown the age a

trans young person comes out has dropped from age 16 in 2017<sup>7</sup> to age 15 in 2022<sup>8</sup>.

The waiting time for a first appointment at the Sandyford Clinic is currently around **four years**<sup>9</sup>. This is followed by a year-long assessment process. There is therefore no evidence of fast-tracking young people into medical treatment, and no causal link to the guidance.

### **Cass Review: Limited Impact in NHS Scotland and Scottish Schools**

The petitioner underpins their argument for change based on the Cass Review. This review was commissioned by NHS England with an aim to ensuring that children and young people are able to access the best possible support from the NHS (in England). NHS England has no role in the commissioning or delivery of services in Scotland. Neither the Cass Review nor NHS England has any significance to the provision of educational materials in Scottish schools.

### **Conclusion**

**We do not agree with the petition's proposal.** The process to develop the guidance was rigorous and involved key national bodies in the field of education in Scotland. The guidance is a vital and well used resource for pupils and schools, it's removal would be detrimental to the wellbeing of trans young people and leave teachers and schools with no national guidance to inform or support their decisions.

It has been established that there are legal protections for trans young people within school settings and there has been no change in legislation since this guidance was published.

The Cass Review, which underpins the petitioner's argument, has no significance to educational materials within Scottish schools.

---

<sup>7</sup> Lough Dennell, B.L., Anderson, G. and McDonnell, D. (2018) Life in Scotland for LGBT Young People. LGBT Youth Scotland. Available online: [www.lgbtyouth.org.uk/media/1354/life-in-scotland-for-lgbt-young-people.pdf](http://www.lgbtyouth.org.uk/media/1354/life-in-scotland-for-lgbt-young-people.pdf)

<sup>8</sup> Cronie, K., (2022) Life in Scotland for LGBT Young People. LGBT Youth Scotland. Available online: [www.lgbtyouth.org.uk/media/2712/life-in-scotland-for-lgbt-young-people-2022-e-use.pdf](http://www.lgbtyouth.org.uk/media/2712/life-in-scotland-for-lgbt-young-people-2022-e-use.pdf)

<sup>9</sup> Scottish Gender Identity Services, Scottish Trans: <https://www.scottishtrans.org/healthcare/scottish-gender-identity-services/>

## Scottish Trans submission of 17 May 2023

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

Thank you very much for inviting us to submit written evidence on Petition PE2001.

Scottish Trans is a project of the Equality Network, a leading national charity working to improve LGBTI people’s equality and human rights. Scottish Trans’ work focuses on improving the equality and human rights of trans people.

#### **We oppose the action called for in Petition PE2001.**

##### Need for the guidance

The ‘Supporting transgender young people in schools’ guidance was created in response to the clear need for advice and support for schools to ensure that they were able to provide a supportive environment for all of their pupils, and to increase their knowledge and confidence in how to do so for trans pupils. In the years preceding the guidance’s publication, school staff, and parents of trans young people, represented a significant proportion of people getting in touch with us to ask for information, advice and support.

LGBT Youth Scotland research has consistently found that trans pupils face significant difficulties at school – such as high levels of bullying, feeling that experiences of homo/bi/transphobia negatively impact on their educational attainment, and leaving education due to experiences of homo/bi/transphobia<sup>10</sup>.

---

<sup>10</sup> See LGBT Youth Scotland’s “Life in Scotland for LGBT Young People” reports from:

2017: <https://www.lgbtyouth.org.uk/media/1354/life-in-scotland-for-lgbt-young-people.pdf>

2022: <https://www.lgbtyouth.org.uk/media/2712/life-in-scotland-for-lgbt-young-people-2022-e-use.pdf>

### Involvement in developing the guidance

Our organisation does not work with young people directly, and we do not routinely work with schools – with our partners LGBT Youth Scotland the expert organisation in this area. However, we do provide expert policy information and advice on trans people’s equality and human rights. We were therefore one of the stakeholders involved in the development of the guidance.

The Scottish Government announced that it would issue guidance on 20<sup>th</sup> June 2019. It was eventually published on August 12<sup>th</sup>, 2021 – reflecting the culmination of many years of consideration and development, which included input from organisations in the education, women’s and sports sector, as well as the LGBT+ sector.

### The value of an “affirmative approach”

There is a great deal of misunderstanding about what is meant by an “affirmative approach”. The language is mostly used in the context of psychological support and providing care for trans and gender diverse young people – so within a medical setting, not within an education setting.

The American Academy of Pediatrics defines an affirmative approach as:

“developmentally appropriate care that is oriented toward understanding and appreciating the youth’s gender experience. A strong, non-judgmental partnership with youth and their families can facilitate exploration of complicated emotions and gender-diverse expressions while allowing questions and concerns to be raised in a supportive environment.”<sup>11</sup>

As you can see, an affirmative approach to trans young people is not about encouraging or presuming a particular outcome for any individual young person. It is instead about listening to them and supporting them to feel confident and content in themselves. It also recommends that this is done in partnership with a young person’s family.

---

<sup>11</sup> American Academy of Pediatrics Policy Statement “Ensuring Comprehensive Care and Support for Transgender and Gender-Diverse Children and Adolescents” 2018: <https://publications.aap.org/pediatrics/article/142/4/e20182162/37381/Ensuring-Comprehensive-Care-and-Support-for>

It is our view that an affirmative approach is best practice when it comes to supporting trans young people in any setting, as it creates an environment where they know they are safe to explore who they are, without any particular expectations.

### Conflation between the schools guidance and medical care

The petitioners state that:

“there is little doubt that the schools guidance and affirmation first approach will contribute to further increases in referrals” (to gender identity services)

There is clearly no evidence to make this claim. The guidance deals entirely with how schools should provide a welcoming learning environment for trans pupils. In fact the guidance states:

“A small number of young people may begin medical transition while in school. Schools and teachers do not need to be involved in this.” (page 51)

The petitioner also references the increase in number of referrals to the Sandyford Clinic until 2018, with the SPICe briefing providing figures for the last two years. It is important to put the figures into context – whilst they have undeniably increased, at their highest point – 499 in 2021 – that is less than 0.1% of the population of 7-16 year olds in Scotland. A small number of children and young people will experience significant distress relating to their gender, and it is right and appropriate that they are referred to services that can provide them with the support and care they need.

However, in our view, this is clearly entirely separate from the content of the schools guidance.

### Update to EHRC’s technical guidance for schools

Whilst we note that the petitioner references correspondence between the Chair of the EHRC and the Bayswater Support Group, it is important to stress that there has been no change in the law relating to the Equality Act 2010, schools, or the protected characteristic of gender reassignment, since the technical guidance was published in 2014.

The law today is identical to when the guidance was produced.

### Conclusion

There is a clear need for guidance for schools on how to ensure they can provide a supportive and welcoming environment for trans pupils.

This guidance provides that, and was developed over a significant period of time with input from a range of expert stakeholders, in the context of the unchanged equality law framework.

It takes a best practice affirmative approach, which supports young people to explore who they are without expectations for any choices they will make, and is not connected to trans young people's medical care.

It is our view that the petition should be closed.

## National Gender Identity Clinical Network for Scotland (NGICNS) submission of 17 May 2023

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

Thank-you for your recent correspondence to the National Gender Identity Clinical Network Scotland (NGICNS) regarding petition P2001 which is 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.

#### **National Gender Clinical Identity Network Scotland (NGICNS)**

The overarching aim of NGICNS is to achieve the best possible clinical and other outcomes for gender patients in Scotland through better access to high quality specialist care by enabling SGHSCD policy aims of safe, effective, person-centred care delivered as close to home as possible.



## **The Guidance**

Scottish Government policy in regard to education and the provision of materials and guidance documents to educational establishments does not sit within the remit of NGICNS.

The published guidance makes it clear that it is non-statutory and is designed to help education authority, grant-aided and independent schools to make decisions effectively but is not prescriptive about what is required in individual circumstances. NGICNS is supportive of any guidance which aims to help school staff to provide transgender young people with the best possible educational experiences. NGICNS are supportive of the overarching aims of the guidance including the promotion of physical and mental wellbeing and the included content describing the services available to those reaching puberty and those undergoing medical transition.

## **The Cass Review & NGICNS**

The Cass Review was commissioned by NHS England with a view to ensuring that children and young people are able to access the best possible support from the NHS (in England), and a high standard of care that meets their individual needs. NHS England has no role in the commissioning or delivery of services within Scotland. In addition, the review has no significance to the provision of educational materials to schools.

NGICNS was established with a view to delivering closer collaboration between Gender Identity Clinics in Scotland (commissioned and provided by Territorial Health Boards) and the wider clinical community providing clinical services to those undergoing or considering transition. Network engagement with relevant charitable, third sector and patient advocacy organisations aims to ensure that lived experiences are understood and that the needs of individuals and the wider community are considered when planning or improving services, developing clinical guidelines or educational offerings for Healthcare Professionals and undertaking clinical audit.

NGICNS is currently awaiting the final report of the findings and recommendations with a view to understanding their relevance to needs for services and pathways of clinical care for the population of children and young people in Scotland.

We hope that the information provided in this letter is helpful to you however should your committee have further queries in regard to the Networks role in the space of specialist healthcare for transgender children and young people please do not hesitate to contact us.



## Equality and Human Rights Commission submission of 18 May 2023

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

Thank you for your letter of 20th April 2023 seeking information on the review of our ‘Technical guidance for schools in Scotland.’

We have started to review this guidance.

We expect to complete an initial review of the guidance by the end of the summer and we will keep you updated.

We will thereafter continue to update the guidance as necessary in the light of new evidence or changes to the law.

## COSLA submission of 22 May 2023

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

Thank you for your letter of 20<sup>th</sup> April 2023 inviting COSLA to address the issues raised in the petition relating to the Scottish Government’s ‘Supporting transgender young people in schools: guidance for Scottish schools’.

In 2018, the [LGBTI Inclusive Education Working Group](#) published their report, making a number of recommendations on how to ensure schools were welcome environments for all. This report was welcomed by the COSLA Children and Young People Board, and COSLA officers co-chair the Scottish Government’s LGBTI Inclusive Education Implementation Group.

COSLA officers were not directly involved in the development of the 'Supporting transgender young people in schools' guidance. In line with our procedures, the specific text of this guidance has not been considered by COSLA's Children and Young People Board. As such we do not have an agreed position on the guidance itself.

COSLA remains committed to working with our partners through the LGBTI Inclusive Education Implementation Group to implement the recommendations of the 2018 report.

We hope this letter is helpful to the Citizen Participation and Public Petitions Committee in its consideration of the petition.

## Equality and Human Rights Commission submission of 3 October 2023

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

We wrote to you on 18<sup>th</sup> May 2023 in response to your letter of 20th April 2023 seeking information on the review of our 'Technical guidance for schools in Scotland.'

We are writing again to update you that we have completed our initial review of the guidance and enclose a link to our recent [statement](#) about this.

## Petitioner submission of 6 November 2023

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

I am writing to you as the petitioner of PE2001 - Withdraw the 'Supporting transgender young people in schools' guidance.

It's important to draw your attention to two new pieces of information which have an impact on the petition I submitted on behalf of Safeguarding Our Schools – Scotland.

1. The updated Equality and Human Rights Commission (EHRC) [Technical Guidance for Schools \(Scotland\)](#)
2. The NHS England MindEd [modules for educators on supporting children and adolescents with gender distress](#)

### **EHRC Technical Guidance**

The EHRC has updated its Technical Guidance for schools in England and Scotland:

*“The EHRC’s review of its Technical Guidance for Schools concluded that some areas of the document, relating to sex and gender reassignment, required updating to be legally correct. The points corrected in the updated guidance include a section on the use of names and pronouns; an example of gender reassignment discrimination in relation to school exclusion; an example with respect to gender segregation in schools amended to be in line with regulations on school toilets in England and Scotland; a reference to segregation on the grounds of gender; and updated definitions of sex and gender reassignment.”*

In my petition and additional information submitted on 3 April 2023, I highlighted the reliance on the EHRC Technical Guidance by the Scottish Government.

The section in the Scottish Government Guidance (p59) which quotes the previous EHRC Guidance is now out of date. The EHRC has substantially revised their understanding of how the Protected Characteristic of Gender Reassignment is demonstrated in schools.

The assumption that a child can merely dress in a different way or tell someone of their intentions in order to be covered under the protected characteristic has been removed, as has FAQ 3.36 which had stated that if a “previously female has started to live as a boy and adopted a male name” it would be direct discrimination for the school to not use the male name and refer to the girl as a boy.

The Scottish Government guidance needs to be updated to reflect the revised EHRC Technical Guidance.

### **NHSE MindEd Modules**

NHS England (NHSE) has published modules following the principles of the Cass Review to help educators support gender distressed children. Their approach is via holistic developmental model rather than the affirmation model endorsed by the Scottish Government.

The developmental approach, endorsed by NHSE “suggests care and supportive observation of how gender questions and any distress develop over time before making changes or assuming one outcome” and “aims to have a broad, holistic understanding of any distress and try to work out if there are additional unmet needs that might be adding to challenges growing up.”

The affirmative approach endorsed by the Scottish Government, “advocates for adults around a child to actively support them to change name, pronouns and making a social transition. It also advocates access to hormonal interventions if appropriate.”

The MindEd modules make it clear that schools need to consider the whole picture and development stage when supporting a gender distressed child, including a chart in part 2 to show questions educators should be asking when a child requests to socially transition.

### **The Scottish Government Guidance instead emphasises:**

*“Teachers should respect a young person’s wishes and use the name/pronoun they have been asked to be used.” (p.22) and “If you’re supporting a transgender young person, be led by them, checking with them what pronoun and/or name you should use and in which circumstances.” (p.25)*

The Scottish Government Guidance needs updating to make clear social transition is an active intervention with potential profound impacts, needing great caution and exploration before any decisions are made about changes of name and/or pronouns.

### **Parental Involvement**

The MindEd modules state that parental involvement is key:

*“Supporting the social transition without the involvement of parents or carers can create complex difficulties within families and is not recommended. Secrets between parents or carers and their children are problematic and are likely to create further issues in the future. When parents or carers discover that changes have been made without their involvement, this can increase risks and can alienate parents and carers from their children (and vice versa) and/or the education setting.”*

The Scottish Government Guidance stresses parental awareness of their child’s social transition at school is optional:

*“A transgender young person may not have told their family about their gender identity. Inadvertent disclosure could cause unneeded stress for the young person, or it could put them at risk and breach legal requirements. Therefore, it is best not to share information with parents or carers without considering and respecting the young person’s views and rights.”*

The Scottish Government has been unable to cite any legislation to support the belief that a child must give permission for their parents to be informed.

At SOS – Scotland, we are aware of several cases where a child’s social transition has been supported by the school without the parents’ awareness.

### **Use of Statistics:**

In my submission, I highlighted the use of the TransPulse statistics around the impact on wellbeing where a child has “supportive” vs “unsupportive” parents. I included a link to the MBM analysis which debunks these statistics and outlines why it is inappropriate for the Scottish Government to include the infographic on page 38.

The use of such statistics has also been highlighted in the MindEd modules: *“There are methodological issues in some of the research into the risk of self-harm and suicide for this group of young people. This means the results of some studies must be interpreted with caution.”*

The module explains that the use of such statistics can lead to young

people and their parents having increased anxiety and feel transition must happen more quickly to avoid these risks – risks based on problematic claims.

The Scottish Government guidance, as we stated in our original submission, should remove reference to the TransPulse survey.

It's my view that there is now enough evidence from the EHRC and NHSE to justify the removal and revision of the Scottish Government Schools Guidance.