

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/transphobia¹.

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

¹ 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>

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 20th June 2019. It was eventually published on August 12th, 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.”²

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.

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.

² 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>

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.