

# 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The section in the Scottish Government Guidance (p59) which quotes the previous EHRC Guidance is now out of date.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.