

By email to: [gqcguidance.consultation@education.gov.uk](mailto:gqcguidance.consultation@education.gov.uk)

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## Guidance for Schools and Colleges: Gender Questioning Children

The Association of Directors of Children's Services Ltd. (ADCS) is the national leadership organisation in England for directors of children's services (DCSs) under the provisions of the Children Act (2004). The DCS acts as a single point of leadership and accountability for services for children and young people in a local area, including children's social care and education. ADCS welcomes the opportunity to respond to the Department for Education's (DfE) consultation on its guidance for schools and colleges: gender questioning children.

### General comments

ADCS welcomes the long-awaited publication of guidance for schools and colleges regarding children who are questioning their gender or experiencing gender incongruence. The non-statutory guidance aims to provide schools and colleges with greater clarity on their statutory and legal responsibilities and how to engage with parents/carers. The guidance has long been called for by the sector and it is welcome that the Department has provided something to help guide decision making, however, it is unclear how the guidance will help schools and colleges support those children and young people whose questions and uncertainties about their sex or gender may increase their vulnerability. ADCS members believe the guidance would benefit from being redrafted in a way that puts children and young people's best interests at its centre and recognises Gillick Competence.

The guidance covers a wide age range of children from primary school through to post-16 education. There is very little recognition of the difference in approaches, such as around parental engagement, that will be required for older children who have different legal rights. The guidance notes that 18 year old students should have the same considerations applied to them as under 18s, yet it is not clear how this will work in practice given they are legally adults.

It is essential that schools and colleges are empowered to support their students who are questioning their gender. Children and young people who are experiencing gender dysphoria are more likely to experience mental health difficulties and will require additional support from the trusted adults in their lives, particularly if that support is not forthcoming in the home. Children who are not allowed to transition are at a far higher risk of suffering from mental health issues, particularly if they are in an environment that does not recognise their change in gender. However, the guidance does not acknowledge this, instead the focus is on when a school or college does not have to engage with a child's wishes to be referred to by a different name or as a different gender. ADCS believes it is a missed opportunity from the Department to provide tangible guidance that helps schools and colleges better understand and navigate this complex landscape, which is all too often subject to unhelpful and damaging public discourse. As the department that holds responsibility for most aspects of a child's life, it is disappointing that the Department for Education has not developed guidance that puts children's best interests first.

Many schools and colleges will have developed their own reasonable and proportionate approaches to support children and young people who are questioning their gender so that they are not marginalised and their individual needs are met. This may require a nuanced approach with the overriding principle of keeping the child's best interests at heart. The national guidance appears disconnected from this and instead outlines a more rigid

approach that does not empower schools or colleges to create an inclusive environment. It is important to note that schools and colleges must comply with existing legislation that impacts on how they support a child who has the protected characteristic of gender reassignment.

The guidance should be strengthened to include a focus on the need for settings to prevent bullying that could be linked to gender questioning, for example transphobic, homophobic or sexist bullying. Alongside this guidance, the sector would also benefit from receiving practical steps to develop relational practice within educational settings, such as creating a better understanding of the experiences of gender questioning pupils through discussions and adopting appropriate terminology and language. This may best be included within the national relationships and sex education curriculum to help schools promote acceptance, understanding and celebration of difference. Many children and young people who are gender questioning will have experienced discrimination and all efforts should be made to make them feel safe and supported.

### **Responding to requests and engaging parents**

The guidance rightly emphasises the importance of safeguarding, however, this appears largely focussed on instances where safeguarding concerns are incompatible with a child or young person's wish to be referred to as a different gender than their biological sex. The final version of this guidance would benefit from also placing greater emphasis on where a child should be safeguarded due to transphobic behaviour, either in the family home or within the educational setting. The guidance also includes detail on when a parent or carer should be made aware of a child making a request, such as to change their name or pronoun. ADCS believes such situations should be dealt with like any other expression of feeling or emotion a child makes to a teacher and should follow established procedure where there is a safeguarding concern, noting that the child may face risk or harm in the home if their family is not supportive of their wishes and feelings.

The *Equality Act 2010* applies to all schools in England who must advance equality of opportunity between those who have a protected characteristic and those who do not. Gender reassignment is a protected characteristic, something that is not mentioned within the guidance. ADCS members are concerned that parts of the guidance may contradict a school's duties in relation to the *Equality Act 2010* and therefore place teachers in a more difficult position, despite the guidance seeking to overcome this issue. Furthermore, the guidance notes that other teachers, parents/carers or pupils may hold religious or other beliefs that conflict with the decision that the school or college has made. ADCS believes the guidance would benefit from clearly stating that once a school or college has agreed to a child's request for change, all staff should implement the change.

### **Registration of name and sex**

The guidance states that schools and colleges must record a child's sex accurately. However, it would be helpful if the Department would consider updating the guidance so that schools and colleges can record a child's gender identity alongside a record of the child's sex.

### **Pronouns**

The section on pronouns is unhelpful and does not reflect the practices that many schools and colleges already adopt in order to support their pupils whose wishes will often have already been adopted by their peer group. Whilst the guidance makes reference to bullying, this appears more focussed on not sanctioning a child who makes an 'honest mistake' rather

than making settings aware of the potential bullying a child questioning their gender may receive. The guidance appears to contradict itself by suggesting that schools can decide on whether to accept a child's request to change their pronoun, yet it also states that teachers do not have to agree to using the new pronoun. The guidance is therefore unclear about what the role of the school or college is in agreeing to decisions and what it means if staff or pupils refuse to comply with the agreed change.

## **Single sex spaces**

The guidance on preserving the use of single sex spaces appears reasonable. However, this section would benefit from being re-drafted in a way that reflects the rights of all children, including those who are gender questioning, particularly around the use of alternative arrangements. Indeed, the suggestion that pupils who do not want to use changing and shower facilities that are the same as their biological sex should use them 'at an alternative time' is unrealistic. Any alternative arrangements for toilets, showers or changing rooms should be provided at the time they are required e.g. a timetabled PE lesson, in order to not disadvantage the child in any way. Furthermore, the guidance once again suffers from not recognising how the majority of schools and colleges currently operate. For example, new schools will often be built with toilets that have a shared washing area and individual toilet cubicles, thus removing the obstacle around the use of toilet facilities.

## **Uniform**

The guidance rightly notes that 'many schools have a unisex uniform that can be worn by both sexes or offer significant flexibility, so allowing a child to change their uniform may be relatively easily accommodated'. ADCS encourages the Department to go further and actively encourage all schools to adopt unisex uniforms for a number of reasons. Not only would this allow parents/carers to pass on old uniform to siblings more easily and therefore reduce costs, it would also make this aspect of the guidance far easier to resolve. Not doing so appears to be a real missed opportunity.

ADCS would welcome the opportunity to discuss this response further with the Department for Education. Please contact ADCS Policy Officer Matt Cunningham via [Matt.Cunningham@ADCS.org.uk](mailto:Matt.Cunningham@ADCS.org.uk) in the first instance.