



RESPONSE TO CONSULTATION

Responding to the Government consultation on

Guidance for Schools and Colleges: Gender Questioning Children

Respond by 11.59pm 12 March 2024

The Department for Education (DfE) is consulting on its draft guidance on “gender questioning children” in schools and colleges.¹ Parents, grandparents, teachers, students and all school or college staff, including all concerned citizens, may respond.² VfJUK provides suggested responses to the Government’s questions below, which you may want to use as part of your answers. The online questions are shown in bold. This is followed by our suggested responses.

You should always use your own words. Responses appearing to be the same are likely to be ignored.

When you respond to the online survey, for many questions you will see boxes into which you are expected to write your responses. The Government asks you to “try to limit your response to under 250 words.” While you may exceed this limit, we recommend that you avoid long answers as they will probably be disregarded. We therefore recommend below that your answers should be confined to no more than 250 words. We advise that you put aside at least 45 minutes to 1 hour for completing the survey. You will need more time, if you choose to read the DfE draft guidance and/or the VfJUK overview.

DfE online survey can be accessed [here](#).

Draft DfE Guidance can be read [here](#).

VfJUK has produced an overview, *Children and Transgenderism: What you need to know*. This can be read [here](#).

You do not need to read the DfE guidance or the VfJUK overview in order to respond to the online survey, though both are recommended. If you can only read one, then we suggest you read our overview on *Children and Transgenderism*.

About you

1-10 These questions are about you.

Structure and overall guidance

11. Do you think the structure of the guidance is easy to follow?

We suggest that you answer ‘no’.

¹ *Gender Questioning Children: Non-statutory guidance for schools and colleges in England*, Draft for consultation, DfE, December 2023, https://consult.education.gov.uk/equalities-political-impartiality-anti-bullying-team/gender-questioning-children-proposed-guidance/supporting_documents/Gender%20Questioning%20Children%20%20nonstatutory%20guidance.pdf

² For a full list of the people whom the consultation is aimed at, see p. 3 of the DfE Consultation.

12. If you answered no, how could the structure of the guidance change to make it easier to follow?’ (250 words maximum)

The difference between ‘sex’ and ‘gender’ is a matter of confusion for many people. ‘Gender’ is included under Language and Terminology (section 4) and comes up 38 times in the guidance, while ‘biological sex’, cited 22 times, is missing, so should likewise feature in section 4 to highlight it’s meaning.

13. Does this guidance provide practical advice to support schools and colleges to meet their duties effectively?
We suggest you answer ‘no’.

14. If you answered no, how could we improve deliverability placed on schools and colleges whilst still providing for schools to meet their duties? (250 words maximum)

Ofsted, the schools’ inspectorate, must be tasked with checking the compliance of schools and colleges with this guidance. In the absence of compliance checks, there will be a lack of effective oversight, and institutions who might otherwise flout its recommendations will never be held to account. Schools or colleges who ignore any parts of the guidance should, therefore, be deemed as placing children at a safeguarding risk. Ofsted would then be expected to respond with steps that it would otherwise take if child safeguarding is at risk.

Responding to Requests and Engaging parents

15. Does this section provide enough detail to help schools and colleges support children? We suggest you answer ‘no’.

16. If you answered no, in which of the following areas do schools and colleges need further guidance to support a child? [tick all that apply]. We suggest you tick the following:

- ✓ How schools and colleges should involve parents in decisions
- ✓ How schools and colleges should manage engagement with parents with different feelings or views to their child
- ✓ When schools and colleges should seek specialist advice or support
- ✓ How schools should put in place a ‘watchful waiting’ period before acting on a child’s request
- ✓ How schools and colleges should handle decisions that impact on the wider school and college community.

In the box, you are invited to detail your reasons. We suggest that you may want to choose about four or five points drawn from the information below. The sub-headed sections reflect the order of the ticked areas above. You must use your own words. (250 words maximum).

Involving parents

The guidance states that parents ‘should’ be made aware if a child requests social transition. This makes the advice merely discretionary, allowing schools either to not inform parents, or when informed, ignore parental concerns altogether. Instead, it ought to be mandatory to inform parents who are the primary educators of their children. The guidance advises about situations involving a “significant risk of harm to the child” being grounds for not informing parents. This requires definition. Some teachers, driven by gender ideology, may believe that the child’s parents hold religious or philosophical views about sex and gender that they judge as a ‘risk of harm’. Without defining this concept, its meaning is open to subjective opinions, and its application uncertain.

<p>Managing engagement with parents</p> <p>As the guidance expects parental consent to be “required in the vast majority of cases”, a loophole remains that permits schools/colleges to veto parents who may be seen as ‘anti-trans’. Parental views ‘should’, the guidance advises, carry great weight and be properly considered. Again, this is discretionary and is liable to be ignored. It should be mandatory.</p>	<p>Seeking specialist advice or support</p> <p>Where a child expresses a preference to be treated as the opposite gender, in the first instance parents must be informed. If this ultimately turns out to be a case of gender dysphoria, it is likely the child is also suffering from other mental health problems, and, after consulting parents, professional medical advice or pastoral support may be sought. “Professional advice or support” should be defined to include, for example, pastoral assistance from a church or other religious source. The guidance should state that parents must be allowed to choose the form of support their child receives from either medical or pastoral help. Schools/colleges must not be free to exercise a veto.</p>
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<p>Watchful waiting</p> <p>It is misleading and wrong to suggest a school/college might have a role in how and on what basis a request is met. Parents are the primary stakeholders in these matters, and so schools must have no part in these decisions. Schools/colleges are not medical authorities, and so should never have any role, however small, in initiating social transition. The ‘waiting’ period is not defined by the guidance and is therefore open to different opinions, and the subsequent confusion that may follow. To ensure children are fully safeguarded from health risks and harms (e.g. puberty blockers), the “waiting” period must be stated as until the age of 18.</p>	<p>Handling decisions impacting schools/colleges</p> <p>The guidance should warn that when a child embarks upon social transition, the implications of this public step are that other children may be influenced by this radical move, or at the least, begin to question their own identity. A host of adverse mental health conditions is associated with transgenderism; autism is also associated with many transgendered people. Therefore, children with very poor mental health may be at heightened risk of safeguarding, if exposed to others who are socially transitioning.</p>
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17. Think about the points outlined for schools and colleges to consider on pages 9-11 regarding making decisions about how to respond to requests for social transition. Are these points helpful? We suggest you answer ‘no’.

18. If you answered no, what considerations would be more helpful for schools and colleges to consider? For example, when assessing whether to support a child wishing to socially transition, do you think different weight should be given to the views of parents, the age of the child, the long- and short-term impacts on the child, the impact on other children, and any relevant clinical or medical advice? (250 words maximum) Remember to use your own words.

- Parental concerns should be prioritised over a child’s expressed wish.
- Minors need protection from harm. It is a safeguarding risk to facilitate a child’s social transition, as this is a potential ‘conveyor belt’ to later medical transition.
- Guidance says on p.11 that, where school/college decisions of social transition are made, pupils, teachers and parents “may hold protected religious or other beliefs that conflict” with this decision, and such “legitimate” views “must be respected.” This section is weak as it fails to say how respect is applied. Instead, it should specify that ‘respect’ means the institution must not do anything that adversely effects pupils, teachers or parents for expressing their disagreement about gender transition, be it based on religious or gender-critical views.
- It’s a legal requirement not to discriminate on grounds of religious or gender-critical views, e.g. to disagree with the belief that men can become women and vice versa.
- The guidance goes on to state (p.11) that a school/college that takes a decision on social transition does so, “without implying contested views around gender identity are fact.” The guidance should state categorically here that, if pupils, teachers or parents express the view that changing your sex is not possible, this ‘contested view’ is an example of a legally protected belief.
- The guidance states on p.11 that when a school/college has agreed that a child can socially transition, the institution should convey this to pupils and staff “where it is necessary and proportionate to do so.”

This is vague advice and needs more detail. What is the threshold of 'necessary'? What is the test of acting proportionately? Staff need guidance on each.

Registration of Name and Sex

This section covers how schools record the name and sex of pupils and asks for your views related to how schools record the name and sex of a gender questioning pupil.

19. Does this section on page 12 provide enough detail for schools and colleges to ensure each child is recorded correctly and according to the Education Act 1996, Pupil Registration (England) Regulations 2006, GDPR and the Data Protection Act? We suggest you answer 'no'.

20. If you answered no, what further information should be included to help schools and colleges? (250 word limit) Remember to use your own words.

- It is right that schools are required to record the name and sex of pupils but the guidance should emphasise that: the sex of a child is the same as their biological sex; that it's not legally correct to record a name that differs from the biological sex of the child.
- We suggest that you make the same point we proposed for question 12. The difference between 'sex' and gender is a matter of confusion for many people and therefore requires definition in the guidance. 'Gender' is included under Language and Terminology (section 4) and comes up 38 times in the guidance, while 'biological sex', cited 22 times, is missing, so should likewise feature in section 4 to highlight it's meaning.

Changing Names

This section covers names and asks for your views related to a gender questioning child's request to change their name.

21. Does this section on page 12 provide enough detail for schools and colleges to respond to a child's requests to change their name? We suggest you answer 'no'.

22. If you answered no, in which of the following areas do schools and colleges need further guidance to respond to a child's requests to change their name? (250 word limit) [tick all that apply]

- ✓ How schools and colleges should make a decision about a child's request to change their name
- ✓ When schools and colleges might refuse a request in relation to a child changing their name
- ✓ How schools and colleges should involve parents in a decision about a child's request to change their name
- ✓ What factors schools and colleges should take into account
- ✓ How schools and colleges should respond to other children and staff who do not wish to use a different name

In the box provided, you may want to make some of the following points. Remember to use your own words.

- Any steps involving a gender questioning child changing their name must not be taken unilaterally by a school/college. Schools/colleges are not medical authorities and therefore it is inappropriate for decisions about social transition to be made by them.
- As to when schools might refuse requests for a name change, we suggest you look at our responses to Question 16 above, especially, the points about "Watchful Waiting". Whether or not you included all the suggested points for Question 16, there is no harm in repeating some of them here.
- The primary factors schools/colleges must take into account include: safeguarding, and protecting the child from irreversible decisions they may later regret.
- The guidance should make it clear that schools/colleges must not admonish or pressure pupils or staff who choose not to use a different name.

- Schools/colleges must abide by the biological sex of a child, and the use of different names, indicating gender preference out of line with a child’s biological sex, must not be allowed in a school setting.

Pronouns

This section covers pronouns and asks for your views related to a child who is questioning their gender and makes a request to change their pronouns.

23. Does this section on page 13 provide enough detail for schools and colleges to respond to a child’s requests to change their pronouns? We suggest you answer ‘no’.

24. If you answered no, in which of the following areas do schools and colleges need further guidance to respond to a child’s requests to change their pronouns? (250 word limit) [tick all that apply]

- ✓ When schools and colleges should refuse a request in relation to a child changing their pronouns
- ✓ How schools and colleges should involve parents in a decision about a child’s request to change their pronouns
- ✓ How schools and colleges should respond to other children and staff who do not wish to use different pronouns

In the box provided, you are asked to give details. Remember to use your own words.

- It is inadequate to state (top of p.13) that primary school children, “should not” have different pronouns to their sex-based pronouns. “Should not” signals a cautious, discretionary ‘no’, and allows a loophole for teachers who believe otherwise. Primary school children are best safeguarded if their pronouns only reflect their biological sex. They are too young, vulnerable and impressionable to decide on pronouns.
- You may wish to bring in points under Question 16 above, especially if you felt unable to include all your responses to Question 16 above.
- Children or staff who choose not to use preferred pronouns should not feel pressured or admonished. For the avoidance of doubt, the guidance should spell this out.

Single-Sex Spaces - Toilets, Changing Rooms and Showers and Boarding and Residential Accommodation

This section covers toilets, changing rooms and showers, and asks about its clarity.

25. Does this section on pages 14 and 15 provide enough detail for schools and colleges to respond when a child who is questioning their gender makes a request to use facilities (e.g. toilets, changing rooms, showers and boarding and residential accommodation) designated for the opposite sex? We suggest you answer ‘no’.

26. If you answered no, in which of the following areas do schools and colleges need further guidance? (250 word limit) [tick all that apply]

- ✓ How schools and colleges should involve parents in a decision about a child’s request not to use facilities designated for their sex
- ✓ Boarding and residential accommodation

In the box provided, you are asked to give details. Remember to use your own words.

- If a school considers itself able to provide an alternative toilet facility, changing or washing facility not used by the opposite sex, this information should be conveyed to the parents.
- Burdensome costs in the provision of alternatives means that schools/colleges must not be under any pressure to provide such alternatives.
- Under boarding and residential accommodation, schools are merely advised not to allow a child to share a room with the opposite sex. It should state that there should be no circumstances when a child should share a room with the opposite sex.

27. Think about the circumstances provided in the guidance on pages 14 and 15, outlining the option for schools and colleges to find alternative facilities. Does the guidance provide enough support to help schools and colleges determine how to offer alternative facilities? (250 word limit)

You may wish to bring out the point above that funding resources are already scarce, and that schools/colleges must never feel under any pressure to provide alternatives.

28. Does this section provide enough detail for schools and colleges to support children who do not wish to use accommodation that is designated for their sex in relation to boarding and overnight accommodation? We suggest you answer 'no'.

29. If you answered no, in which of the following areas do schools and colleges need further guidance? (250 word limit) [tick all that apply]

- ✓ How schools and colleges should make decisions about requests to access boarding and overnight accommodation designated for children of the opposite sex
- ✓ When schools and colleges should refuse a child's request to use different boarding and overnight accommodation while on a school or college trip
- ✓ How schools and colleges should involve parents in a child's request to use different boarding and overnight accommodation while on a school or college trip

In the box provided, you may want to repeat or elaborate on some or all of the points we suggested under Question 26 above. Remember to use your own words.

Uniform

This section covers uniforms in schools and colleges and asks you about your views on uniforms in relation to children questioning their gender.

30. Does this section on page 16 provide enough detail for schools and colleges to respond to a gender-questioning child who makes a request in relation to uniform? We suggest you answer 'no'.

31. If you answered no, in which of the following areas do schools and colleges need further guidance to respond to a gender-questioning child, who makes a request in relation to uniform? (250 word limit) [tick all that apply]

- ✓ When schools and colleges might refuse a request in relation to a child wearing a different uniform

In the box provided, you are asked to give details. Remember to use your own words.

Schools must not be put under pressure to permit different uniforms for the following reasons:

- The guidance states (p. 16) that gender questioning children "should, in general, be held to the same uniform standards as other children of their sex... and schools may set clear rules to this effect." This makes requests to permit a different uniform discretionary. However, to avoid appeals from the child and their parents to action the request, the guidance should state a mandatory rule that uniforms must reflect the biological, legal sex of the child.
- Single sex schools must be allowed to retain their single-sex character and must not feel pressure to depart from this.

Physical Education and Sport

This section covers your views on how the guidance will support teachers in relation to children who are questioning their gender and PE and sport in schools and colleges.

32. Does this section on page 17 provide enough information on what to do if a gender questioning child asks to participate in a certain sport or activity with the opposite sex? We suggest you answer 'no'.

33. If you answered no, in which of the following areas do schools and colleges need further guidance to support children taking part in PE or sport? [tick all that apply] (250 word limit)

- ✓ When schools and colleges should refuse a request in relation to a child taking part in a certain sport or activity
- ✓ How schools and colleges should make a decision about whether a child can take part in a certain sport or activity

In the box provided, you are asked to give details. Remember to use your own words.

- The guidance offers valuable advice that: “For all sports where physical differences between the sexes threatens the safety of children, schools and colleges **should** adopt clear rules which mandate separate-sex participation. There can be no exception to this.” (Emphasis added) The advice could be clearer and stronger: while stating there can be no exception to the rules, it also allows that the adoption of rules in the first place is discretionary, as indicated by ‘should’. The guidance must state that adoption of these rules is mandatory in secondary schools or colleges.
- When a child requests participation in PE or sporting competition intended for the opposite biological sex, the guidance unhelpfully advises that schools/colleges should consider this decision based on three factors: the child’s age, safety of mixed-sex participation, and the fairness of mixed-sex participation. To ensure safety is always maintained, the guidance must state clearly that activities intended for single-sex participation in secondary school or colleges, must never be opened up to the opposite biological sex. Also, for the sake of fairness, where biological males have a physical advantage, they should never be permitted to compete with biological females.
- Schools/colleges need stronger guidance that provides confidence, clarity and certainty in knowing how to respond to requests, so that physical safety of biological girls is always maintained. Unless a clear mandate regarding an age threshold is provided, it is likely to leave girls at risk of physical injury, while bringing possible doubt about how requests are handled. In the absence of providing a single-cut off point, schools/colleges are likely to adopt different rules.

34. Think about the circumstances provided in the guidance on page 15, outlining the need for fairness and safety in PE or sport. Does the guidance provide enough support to help schools and colleges determine what is fair and safe? We suggest you answer ‘no’.

35. If you answered no, what further support should be included to help schools and colleges determine what is fair and safe in PE or sport? Remember to use your own words.

- To maintain safety for biological girls, it can never be deemed safe to permit competitive mixed-sex sport in secondary schools. The guidance rightly recognises that boys who are going through or have been through puberty are “generally stronger, larger and heavier than girls”. The guidance therefore should provide a minimum age threshold: mixed-sex competitive sport must never be permitted for secondary school-age children. This prohibition would also provide fairness.

Single-sex schools

This section asks about your views on how the guidance covers admissions to single sex schools.

36. Does the guidance on the application of the Equality Act to admissions to single sex schools on page 18 provide enough information to support single sex schools in making decisions about the admission of children who are questioning their gender? We suggest you answer ‘no’.

37. If you answered no, in which of the following areas do schools and colleges need further guidance to support effective decisions on the admission of children who are questioning their gender [tick all that apply] (250 word limit)

- ✓ Law
- ✓ Something else

- We suggest the most important point to make is that single-sex schools/colleges should not, as the guidance states, merely be permitted to refuse admission to children who are the opposite biological sex and who are questioning their gender. Instead, this refusal should be a requirement.
- The legality of refusing admission to children who are biologically the opposite sex is unclear. On the one hand, the guidance cites the Equality Act, saying it does not prevent single-sex schools from admitting those of the opposite biological sex in exceptional circumstances. It also recognises that schools don't have to accept admissions of children who are the other biological sex. The guidance states that whether exceptional circumstances cover admissions of the opposite biological sex is a "matter of fact and degree" and depend on the circumstances of the case. The potential leeway provided by exceptions creates a grey area and opens up potential litigation from rejected applicants.

Questions 38 and 39 You only need to answer these questions if you work or represent in single-sex schools.

Public Sector Equality Duty [PSED]

40. Do you have any comments regarding the potential impact of the guidance on those who share a protected characteristic under the Equality Act 2010, whether negative or positive? How could any adverse impact be reduced and are there any other ways we could advance equality of opportunity or foster good relations between those who share a protected characteristic and those who do not? (250 word limit)

- The guidance should emphasise that parents, children and teachers who are Christian are protected under equality law when they hold and express gender-critical beliefs, such as believing that biological sex cannot be changed, regardless of whether these views were expressed inside or outside a school/college setting.
- It must be required for school/college policies addressing gender questioning children to include the fact that Christian parents, children or teachers must have their gender-critical beliefs respected. It cannot be left to chance. Legally, respect must mean that the school/college cannot be allowed to impose any adverse conditions, including any punitive or unfavourable measures that are the outcome of internal "inclusion" policies.

General

41. Do you have any comments on the overall approach of the guidance? (250 word limit)

42. Do you have any further comments you would like to share on the draft of the guidance that have not been captured above? (250 word limit)

In your own words, we offer some suggested points below. Some of these are broader points that are already cited above but their great importance merits special mention here. You may not have been able to use all these points above, so we suggest you choose the best points:

- The Language and Terminology section is factually wrong, and therefore impacts some of the guidance. Misleadingly, it claims: "Many people do not consider that they or others have a gender identity at all." This grossly inflates the truth. According to the 2021 Census, very small numbers of people identified as not having a gender: only 30,000 people identified as 'non-binary' (0.06%).
- As schools/colleges produce their own equality, diversity and inclusion policies, this creates potentially unhelpful divergence throughout the education sector about how to respond to gender questioning children. This is a problem, especially because gender identity is, as the guidance states, a contested belief (pp. 6, 7 and 11). Where safeguarding is concerned, there needs to be nationally streamlined approaches in this field. Therefore, this guidance must be treated as a test of compliance by Ofsted, so that schools may be accountable. Without this test of oversight, institutions are at risk of becoming a 'Wild West'.
- It is to be welcomed that the role of parents occupies an important place in this guidance. But parental knowledge of and active involvement in cases involving their children should not be merely at the discretion of the school/college. These institutions should instead be required to inform parents, who are the primary educators of their children.

- Child welfare must be evidence-based. According to science, the adolescent brain up to the mid/late twenties lacks cognitive maturity, meaning it lacks the level of adult capacity for the assessment of risks. Exposing children to social transition is, according to research, likely to lead to medical transition, which carries various health risks and harms. Cognitive development in children and young people is in a continuing process of maturation and, therefore, their processing of risk assessment is not equal to an adult's capacity for consent. Therefore, to ensure their safeguarding, children and young people should not be allowed to transition socially, medically, or surgically, below the age of 18.
- Schools must not usurp the authority of parents and make decisions that exceed their authority. Schools are not medical authorities, and when it is believed that a child may be questioning their gender, in the absence of a diagnosis of gender dysphoria, they cannot be deemed to be transgender.
- Any steps setting in motion the social transition of a child must be deemed as a safeguarding risk, because this will likely lead to later medical interventions that are medically risky and harmful, and may be irreversible. A growing body of evidence shows that increasing numbers of people are regretting early decisions to transition, taken when they could not fully understand or assess the long-term effects and associated risks.

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