

# RESPONSE TO PETITION PE2001: CITIZEN PARTICIPATION & PUBLIC PETITIONS COMMITTEE

18<sup>th</sup> May 2023

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 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>.

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<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)

<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*

- ➔ 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
- ➔ 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.

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<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/>

## 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)
- ➔ 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

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

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 petitioner'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.

- ➔ **For more information on LGBT Youth Scotland, visit [www.lgbtyouth.org.uk](http://www.lgbtyouth.org.uk)**
- ➔ **LGBT Youth Scotland is a charity registered in Scotland, No: SC024047 and a company limited by guarantee, No: SC244805**
- ➔ **For further information about this briefing, please contact [info@lgbtyouth.org.uk](mailto:info@lgbtyouth.org.uk)**

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<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/>