RESOURCES

Safe Schools Alliance UK
Putting Safeguarding First

EQUALITY & DIVERSITY POLICY 'RED FLAGS'

Whilst it is the **legal and moral obligation** of schools to ensure **equality of opportunity for all pupils**, certain lobby groups offer training, guidance and resources which are misguided. Much of this guidance **misrepresents the Equality Act 2010** and, in many cases, **contradicts statutory safeguarding frameworks**. Use of these policies may r**esult in a child suffering harm or discrimination**, **leaving schools vulnerable to legal action**.

This document highlights **ten 'red flags'** to help schools choose expert organisations and guidance to consult when drawing up equality and diversity policies which comply with the law.

1. ONLY CITING LOBBY GROUPS AS A SOURCE OF EXPERTISE

Equality and Diversity policy guidance **should include input from legal, medical and safeguarding experts**. Any organisation which promotes training or resources which **omit or ignore the input of these experts should be approached with caution**.

2. REFERRING TO 'GENDER' AS A PROTECTED CHARACTERISTIC

The nine protected characteristics under the Equality Act 2010 are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation. It is unlawful to discriminate against a person based on any of these characteristics.

Although the terms **'sex' and 'gender' are often used interchangeably** it is **necessary to draw a distinction between the two** in policies as **'gender' has no meaning in law**. **'Sex' refers to the biological, reproductive classification of people as either 'male' or 'female'**. 'Gender' refers to the social expectations, roles or stereotypes of each of the sexes. While the two are linked, it is important to **acknowledge the difference in order to protect both adults and children from sex-based discrimination**.

It is also important to note that **'Sex' and 'Gender Reassignment' are separate protected characteristics**. Erroneous use of the term 'gender' in place of 'sex' can lead to the misunderstanding that someone with the protected characteristic of 'gender reassignment' is considered to be a member of the opposite sex. This is not the case. An individual who has the protected characteristic of '**Gender Reassignment**' is 'proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex'. This does not necessarily mean that an individual must obtain a Gender Recognition Certificate (GRC) in order to have the protected characteristic of 'gender reassignment'. **A Gender Recognition Certificate is a legal fiction** which allows transsexual individuals to be legally considered the opposite sex **in some, but not all, situations** (see **Equality Act exemptions**).

Individuals must be 18 years old to obtain a Gender Recognition Certificate or undergo gender reassignment surgery. As such, **children who identify as transgender remain their biological sex in the eyes of the law**.

3. NOT MENTIONING EQUALITY IMPACT ASSESSMENTS

The Equality Act 2010 Section 149 requires that **schools and local authorities conform to the Public Sector Equality Duty** (PSED), meaning that they must 'take steps to meet the needs of persons who share a relevant protected characteristic'. **An Equality Impact Assessment (EIA) is a well-established tool to help public bodies meet their obligations under the PSED**.

Any guidance which does not refer to the need to assess new policies against the requirements of the PSED, or only refers to the impact of a policy change upon one protected group, should be treated with suspicion. Schools must anticipate that changes to policies regarding pupils who may have the protected characteristic of 'gender reassignment' are **likely to have a significant impact upon pupils with the protected characteristic of 'sex'.**

For example, **single-sex provision** (as legislated for under Equality Act exemptions) will be **unlawfully undermined** by policies which permit access to individuals of the opposite sex who have the protected characteristic of 'gender reassignment'. In light of issues such as **period stigma** and the **prevalence of boy-on-girl sexual harassment/assault in schools**, it is imperative that schools give policies which may impact the provision of single-sex facilities particular consideration. Similarly, there may be **conflict between pupils who have the protected characteristic of 'religion' who require single-sex spaces due to their religious beliefs**, and pupils who may have the protected characteristic of 'gender reassignment' and wish to access facilities of the opposite biological sex.

Regarding sport, schools should evaluate whether the **fairness or safety of a sporting activity would be impacted by it becoming mixed-sex**. If fairness or safety are likely to be adversely impacted by males playing/competing with females, **schools must show how they have considered their PSED** before introducing policies which allow pupils who identify as transgender to compete with pupils of the opposite biological sex. Evidence suggests that **girls are less likely than boys to take part in sport** and schools should be mindful of this.

4. ADVOCATING CONFIDENTIALITY FOR TRANS-IDENTIFIED PUPILS

Many lobby groups suggest that information disclosed by a child relating to their 'transgender identity' must be treated with **absolute confidentiality**. This **contradicts the most basic principles of safeguarding** which states that adults must not keep secrets for children who may be vulnerable. Information-sharing is a fundamental principle of safeguarding and **adults within school must be free to share information with relevant internal and external staff/agencies**. Disclosures and observations which may seem unimportant could form part of a 'bigger picture' regarding a pupil's safety and well-being and so **guidance which suggests that some disclosures may be exempt from information-sharing best practice is alarming**.

Lobby groups also suggest that a child's 'transgender identity' **must be kept secret from the parents** if the child wishes. Again, **this contradicts safeguarding guidance** which advocates **working with families** with a child-centred approach with 'parents playing a full part in their [children's] lives'. Excluding parents from such significant discussions and decisions, particularly where their child is vulnerable, contradicts safeguarding best practice and should not be encouraged by lobby groups.

Similarly, parents should be **made aware of policy decisions which may impact upon their** child — for example, if policy changes are made which mean single-sex facilities are not available to their child. The **real-life consequences** of these policies must be **communicated to parents in plain language** so that they are able to give **informed consent** where necessary.

The decision to work with lobby groups who disregard safeguarding frameworks must not be taken lightly and **schools must be aware of the legal implications should a child come to harm whilst following such guidance**.

5. PROMOTING MIXED-SEX OR 'GENDER NEUTRAL' TOILETS

The Equality and Human Rights Commission publication *Technical Guidance for Schools in England*, states that **it may be discriminatory to insist a transgender young person use the facilities of their birth sex**. Schools should avoid putting pupils who identify as transgender in humiliating or uncomfortable positions as far as is reasonably practicable.

However, exemptions to the Equality Act 2010 **allow for the provision of single-sex facilities in order to achieve a legitimate aim**. These exemptions apply to scenarios such as changing rooms (EA2010 Schedule 3 part 7) and sleeping arrangements (EA2010 Schedule 23). Given the **recently reported increase in sexual abuse** in schools (which is overwhelmingly perpetrated by boys against girls), **ensuring the safety of female students can be considered a legitimate aim of single-sex facilities**. Schools must consider their moral and legal responsibilities regarding the safety of female students if they decide against providing single-sex facilities.

Children should not be forced to share private spaces with a member of the opposite sex for reasons of **privacy and dignity**. It is **essential that children and teenagers feel that their personal boundaries are respected and protected**. Puberty and adolescence are times when a child may feel particularly self-conscious or insecure. They **may be uncomfortable or vulnerable in situations where they feel exposed** (for reasons such as are listed in point 3). It is vital that schools are sensitive to this.

Guidance from lobby groups suggests that pupils who identify as transgender must be allowed to use facilities designated for the opposite sex if they wish and often suggest that 'gender neutral' (mixed-sex) toilet facilities are a best practice solution which works for all. This guidance **unlawfully discriminates against one protected characteristic (sex) in favour of another (gender reassignment)**.

There are solutions which satisfy both the EHRC guidance and the legitimate aims of single-sex provision under Equality Act exemptions. A school may provide toilet/changing facilities which are single-sex (separate male and female toilets/changing) and also provide a number of self-contained, floor-to-ceiling, lockable facilities which can be used by either sex. **This achieves the legitimate aim of providing safe, single-sex spaces for female pupils whilst also not discriminating against transgender pupils** by insisting they use the facilities which correspond to their biological sex. Instead, they can use the self-contained facilities which are open to pupils of either sex.

6. USING EMOTIVE SUICIDE STATISTICS TO PUT PRESSURE ON SCHOOLS

Guidance from lobby groups often asserts that 59% of trans youth have considered suicide whilst 48% have attempted it. These **emotive statistics are used to pressure schools into adopting lobby group policy without proper scrutiny**.

The above findings are **based on a survey with a very small sample size of just 27 transgender children**. Thirteen of these children had considered suicide at some point, but no information was collected on whether this was before or after social transition. In other words, **the figures do not help us to understand whether social transition at school would reduce the risk of suicide**.

The Stonewall Schools Report from 2017 contains similar percentage figures with a higher sample size, but again **does not specify what stage children are at in their transition, nor their sex or sexual orientation**. **No information is given about participants' other mental health issues**.

The Samaritans recommends that reporting suicide should '**avoid over-simplification**…approximately 90 per cent of people who die by suicide have a diagnosed or undiagnosed mental health problem at the time of death'. Guidance which uses suicide statistics in a **sensationalist and alarmist** manner **without disclosing the unreliability and inconclusiveness** of survey data is **gravely irresponsible**.

7. SUGGESTING THAT ALL GENDER NONCONFORMITY INDICATES A CHILD IS TRANS

Guidance from lobby groups suggests that certain personality traits, characteristics, interests or hobbies are typical of girls whilst others are typical of boys. **This is sexism**. According to lobby groups, children who conform to these gender stereotypes are to be labeled 'cis', whilst children who do not conform to these gender stereotypes are labelled 'trans'. This **reinforcement of sexist gender stereotypes** is regressive, restrictive and severely limits the opportunities for children to develop into well-rounded, balanced and diverse individuals. Schools must consider their **legal duty to not discriminate against individuals based on the protected characteristic of sex** when choosing to incorporate such guidance into their policies and/or Relationship and Sex Education curriculums.

Some lobby groups appear to suggest that **same-sex attraction is indicative of being transgender**. As whistleblowing clinicians from the Tavistock Gender Identity Development Service (GIDS) said, **'it feels like conversion therapy for gay children'**. This observation, made by medical professionals with first-hand experience of treatment within a gender identity clinic, is alarming. Schools must be wary of guidance which could be perceived as suggesting that homosexual students are transgender by default. Choosing to follow such guidance may be considered **discriminatory against individuals who have the protected characteristic of sexual orientation** and **may leave schools legally vulnerable**.

A recent study, *Autistic traits in individuals self-defining as transgender or nonbinary,* published in the *European Psychiatry* journal found that i**ndividuals with autism are disproportionately more likely to be trans-identified** than those without ASD. Given that individuals with autism are **likely to experience difficulty with social skills**, it follows that autistic children are likely to find it **particularly challenging to conform to gender stereotypes and expectations**. It seems exploitative to encourage autistic children to identify as transgender and we urge schools to be wary of guidance which promotes social transition for children without exploring underlying psychological issues.

A 2019 Swedish documentary, *The Trans Train* (*Uppdrag Granskning*), interviewed health professionals working at a gender identity clinic. They noted that **many of the children who were referred to the clinic also presented with other complex mental illness**, such as PTSD (observed in 60% of female patients). We strongly advise schools to seek guidance which gives this complex issue proper consideration and adequately explores the possibility that pupils who present as transgender may require support for more complex underlying mental health issues.

In September 2018, then Equalities Minister, Penny Mourdant, ordered an investigation into why there is a **vastly disproportionate number of female children identifying as transgender** in comparison to male children. The number of girls referred for treatment has **risen by more than 4000%** within a decade. Lobby groups whose guidance does not acknowledge this disproportionate surge or which does not explore **the possibility of social contagion** are guilty of presenting an incomplete picture to schools.

The **majority of children who question their gender or who identify as transgender are likely to desist after puberty**. A recent report in the British Journal of General Practice, *Gender Incongruence in children, adolescents, and adults*, stated that 'many younger people identify with a range of gender types…and there is greater difficulty distinguishing overlaps with imaginative processes [in children]. The majority presenting before puberty desist'. NHS Gender Identity and Development Service clinicians have also stated recently that **allowing children to transition socially, including at school, is not to be encouraged** as it puts them on **a pathway which is likely to result in irreversible medical transition**. Schools may be liable if they are perceived as instrumental in encouraging a child to transition, contrary to NHS advice, and a child subsequently comes to harm as a result.

8. MAKING SCIENTIFICALLY INACCURATE ASSERTIONS REGARDING BIOLOGY

The 2019 British Journal of General Practice article *Gender Incongruence in children, adolescents, and adults* is clear that '**humans are sexually dimorphic**, with **rare intersex conditions** being the anomalous developments of dimorphic sexual classes. **It is not possible to change biological sex**. There is **no agreed scientific basis** for someone having the mind of someone from the opposite sex or being born in the wrong body'. Any guidance which states that sex is 'assigned at birth' and can be changed at will has no basis in scientific fact and is **likely to mislead and confuse children**.

Similarly, **appropriation of intersex conditions** or Differences in Sexual Development (DSD) to support the **false notion that human sex exists on a spectrum** is equally inaccurate and does not support scientific consensus that human sex is binary and dimorphic. The **overwhelming majority of people are unambiguously either male or female** and, even of those with Differences of Sexual Development, very few are unable to be classified as one of the two sexes.

Guidance which suggests **biological inaccuracies** such as that 'boys can have periods' or that 'some women have penises' **contradicts the national science curriculum r**egarding puberty and reproduction. Teaching inaccurate information, particularly regarding changes to their anatomy during puberty, **will leave children vulnerable**. Allowing this information to be promulgated may leave schools open to challenge on the grounds of **educational negligence**. From a **safeguarding perspective**, it is vital that children have absolute clarity regarding the biological function of their bodies so that they are **able to recognise abuse and communicate this using accurate and unambiguous phrasing**.

Many of these lobby groups fail to explore the effect that inaccurate and unscientific information will have on other pupils — **particularly those with ASD or learning difficulties who may find this abstract and illogical ideology to be extremely difficult to grasp**.

9. DELIVERING SESSIONS TO PUPILS WITHOUT SCHOOL STAFF PRESENT

Many lobby groups offer free training and resources to schools. **Schools are responsible for vetting, not only the content of any programs or training delivered to pupils, but also the people delivering them**.

A member of staff should read through *all* materials used by any external organisation, before making the decision to use them, **including researching their social media presence**. Failure to do so could result in later embarrassment/complaints for the school and even legal liability. Any organisation providing promotional materials without allowing schools access to their full range of literature and/or qualifications should be regarded with suspicion.

Some lobby groups reassure schools that they will provide staff to deliver sessions and, as such, no member of school staff needs to be present. This should be regarded with deep suspicion. **Adults from external providers should never be left unattended with students**. School leadership remain responsible for students safety at all times. It is **vital that sessions from external providers are overseen to ensure content is age-appropriate, safeguarding-compliant and legally accurate**.

It is well established that **lessons on sensitive topics have the potential to provoke disclosures**. It is essential that a properly trained member of school staff is available to sensitively handle any such occurrences.

10. NEGLECTING TO DISCLOSE THE NEGATIVE SIDE EFFECTS OF TRANSITION

Guidance from lobby groups often promotes or condones potentially harmful treatment of trans-identified children or otherwise fails to mention clear safeguarding and health risks associated with trans-identified children and transitioning.

Vulnerability Online

Much guidance from lobby groups neglects to warn schools of **the 'online' nature of gender identity politics**, and the potential for this to **leave children vulnerable to grooming**. Pupils developing **online relationships with anonymous individuals** is a **clear safeguarding concern**. This is of particular concern as online topics of conversation regarding gender identity often centre around sex, sexuality and body image — **including explicit reference to genitals and sexual activity**. Trans-identified children have also been know to receive **'coaching' for doctor's appointments** on social media sites in order to ensure that they receive their desired diagnosis of gender dysphoria and subsequently get prescriptions for puberty blockers/hormone replacement therapy. Some children even **access unregulated medication online without prescription**.

Breast Binding

Guidance from lobby groups often suggests that schools should affirm the self-harming practice of breast binding. Breast binding (similar to breast ironing) is the practice of wearing bandages or compressive clothing (sometimes called breast binders) over the chest with the aim of preventing the development of breast tissue or destroying existing breast tissue. **Breast binders are a commercial product** available for purchase online and some are also donated for free by LGBT organisations. They are **not licensed medical devices** and their use is **not monitored by medical professionals**. Research by The Binding Health Project found that **over 97%** of those surveyed reported **negative effects of breast binding**. These include **back, chest, shoulder, breast and abdominal pain, overheating, shortness of breath, muscle wasting, dizziness, swelling, skin infections, scarring, spine changes and rib fractures**.

Puberty Blockers, Hormone Replacement Therapy & Surgery

Guidance from lobby groups often refers to puberty blockers in a way which suggests they are a standard and uncontroversial treatment. Although the long-term side-effects are still unknown, the available evidence shows that **puberty blockers reduce bone density growth, and have a negative effect on the children's mental health**. A recent paper by Michael Biggs of Oxford University criticised the NHS Gender Identity and Development Service's use of puberty blockers noting that 'blocking puberty impedes the development of sexual functioning; some children…never develop the capacity for orgasm'. **Puberty blockers are also described as 'completely reversible'.** Fertility *should* recover after treatment ends, but **very few children who are prescribed puberty blockers ever cease treatment**. GIDS statistics show that 90.3% of children who do not take blockers desist. In contrast, nearly 100% of children on puberty blockers have gone on to have hormone replacement therapy (HRT). HRT has **irreversible side effects, including: sterility; increased risk of heart disease and strokes; increased risk of breast, ovarian and womb cancer; and increased risk of blood clots.**

Some guidance **uncritically refers to surgery as a future option for trans children**, with no mention of the **high rate of complications**. Lobby groups fail to mention that the cavity created to resemble a vagina during vaginoplasty remains an open wound and that males who opt for this surgery will need to 'dilate' it regularly and indefinitely in order to prevent the body from closing the wound. For female transgender, there are even higher rates of complications. An article published in the Indian Journal of Plastic Surgery, *Phalloplasty: The dream and the reality* stated that **the rate of urethroplasty-related complications is up to 64%**. It is irresponsible for lobby groups to promote puberty blockers and hormone replacement therapy, knowing that use of these medications may lead children to seek risky, complex and irreversible surgeries later in life.