



Why social transition in schools is not possible and government guidance should say so clearly

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Sex Matters is a human rights organisation campaigning
for clarity about sex in law, policy and language

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Introduction

The past decade has seen a sharp increase in the number of school pupils identifying as trans, non-binary or another novel gender identity, and significant disagreement concerning how this increase should be handled in schools. At the time that the Gender Recognition Act was passed it was thought that around 0.01% of the adult population were transsexual. Currently around 0.1% of the school population is being seen by, or on the waiting list for, the Gender Identity Development Service (GIDS) at the Tavistock clinic.

A recent BBC survey of over 7,000 teachers found that around 8% of primary-school teachers and 75% of secondary-school teachers said they had pupils who identified as trans or non-binary. This suggests that there may be seven times as many pupils in school seeking to be treated “as a different gender” than there are currently being seen or waiting to be seen by doctors.¹

Dr Cass’s interim report includes clinical recommendations relating to “social transition”. But her mandate does not include schools, and she has not considered the rights of other children.

Schools and local authorities lack clear guidance on their statutory obligations when faced with a request to treat a child differently from other children – to treat a boy as if he was a girl, or a girl as if she was a boy, or a pupil as neither girl nor boy.

Clear, practical, legally sound government guidance for schools is long overdue, and it is the Department for Education’s role to provide it. If the Department for Education fails to provide clear guidance, it is failing in its own statutory duty to support schools to perform theirs. This failure is exposing children to risk of harm, and leaving school leaders to make decisions they might struggle to defend in court.

Sex Matters has published two longer papers about this.² This briefing sets out our recommendations that focus on questions of “social transition” in schools. In short, we argue:

It is not possible to treat any child as if they are a member of the opposite sex in a school environment. A clear analysis of the steps involved in social transition reveals that to do so inevitably exposes the child to unacceptable safeguarding risks and infringes other pupils’ rights. This should be made clear in DfE guidance.

¹ Lauren Moss & Josh Parry. ‘Teachers walk tightropes in face of no trans guidance’. BBC News. 19th May 2023.

² Sex Matters. ‘Our response to the NHS interim service specification consultation’. 29th November 2022.
Sex Matters. ‘What guidance from the Department for Education needs to say’. 13th January 2023.

What is social transition?

Social transition is often described in fairly bland terms, with reference to change of name, pronouns and appearance. For example:

- “Clothing, hairstyle, change of name, and use of pronouns.” Steensma and Cohen-Kettenis (2011).³
- “A process that typically involves changing a child’s pronouns, first name, hairstyle, and clothing.” Olson et al (2022).⁴
- “Change in name, change in pronoun usage, and change in other phenotypic social attributes, such as hair-style and clothing-style that mark one’s gender to significant others.” Zucker (2019).⁵
- “Social transition (ST): Allowing a child to choose play, clothes or roles, or a name and pronoun, that they feel congruent with their affirmed gender, either in the domestic environment or also outside (in school for example).” Giordano (2019).⁶
- “[Social transition] is used to refer to a decision by a family to allow a child to begin to present, in all aspects of the child’s life, with a gender presentation that aligns with the child’s own sense of gender identity and that is the “opposite” of the gender assumed at the child’s birth. Social transitions involve changes in the child’s appearance (e.g. hair, clothing), the pronoun used to refer to the child, and typically also a change in the child’s name.” Olson et al. (2016).⁷
- “This reversible non-medical step towards a life in the identified gender may include changing one’s name or pronoun, being introduced as the experienced gender in public, as well as gender typical appearance in terms of e.g., hair length and clothing.”⁸ Sievert (2021).

³ Thomas D. Steensma & Peggy T. Cohen-Kettenis (2011). ‘Gender Transitioning before Puberty?’. *Archives of Sexual Behavior* 40 (4): 649-50.

⁴ Kristina R. Olson, Lily Durwood, Rachel Horton, Natalie M. Gallagher & Aaron Devor. ‘Gender Identity 5 Years After Social Transition’. *Pediatrics* August 2022; 150 (2).

⁵ Kenneth Zucker (2019). ‘Debate: Different strokes for different folks’. *Child and Adolescent Mental Health* 25 (1).

⁶ Simona Giordano (2019). ‘The importance of being persistent. Should transgender children be allowed to transition socially?’. *Journal of Medical Ethics*, 45(10), 654-661.

⁷ Kristina R. Olson, Lily Durwood, Madeleine DeMeules & Katie McLaughlin (2016). ‘Mental health of transgender children who are supported in their identities’. *Pediatrics*, 137(3).

⁸ Elisabeth DC Sievert, Katinka Schweizer, Claus Barkmann, Saskia Fahrenkrug & Inga Becker-Hebly. (2021). ‘Not social transition status, but peer relations and family functioning predict psychological functioning in a German clinical sample of children with Gender Dysphoria’. *Clinical Child Psychology and Psychiatry*, 26(1), 79-95.

Pronouns are different

While “hair, clothing, name and pronouns” are often bundled together as “social transition”, only some of these steps are under the control of a child and their parents.

While a change of hairstyle does not involve a change of status or a demand on others (or an expectation of future medical treatment), a change of pronouns (and other words, such as being referred to as a girl or boy) marks the boundary between gender non-conformity and social transition or affirmation.

This is recognised, for example by Horton (2022), citing other recent literature:⁹

“A ‘social transition’ is considered the point at which family and or community respect and affirm a trans child’s identity, commonly accompanied by a shift in pronoun (Ashley, 2019c; Ehrensaft, 2020).”

“Social transition” in the context of school is the demand and expectation that the child should be treated as if they are the opposite sex by all the staff at the school and by other children, both in social interactions and in the application of sex-based rules: for example by being allowed to use opposite-sex washing, changing and toilet facilities and to play as the opposite sex in sports.¹⁰ It goes beyond a matter of a child’s self-expression, and affects their own and other children’s human rights and safeguarding. It also sets up a demand and an expectation for medical transition.

In school it may mean that others are subject to disciplinary measures if they do not comply with demands to change their language.¹¹ At the most extreme, a child and their parents may seek for the child to live as the opposite sex “in stealth”, for example transferring from primary to secondary school as if they were the opposite sex and insisting that teachers and other children are lied to about the child’s sex.

⁹ Cal Horton (2022). “I Was Losing That Sense of Her Being Happy” – Trans Children and Delaying Social Transition’. *LGBTQ+ Family: An Interdisciplinary Journal* 18:2, 187–203.

¹⁰ Many examples of policies promoting this approach are cited in Transgender Trend (2020). *Stonewall schools guidance: a critical review*.

¹¹ Louisa Clarence-Smith. ‘Teacher who ‘misgendered’ pupil banned from profession’. *The Telegraph*. 22nd May 2023.

Why Cass cannot provide guidance to schools

Dr Hilary Cass's review is focused on children who are being seen or waiting to be seen by specialist gender-identity services. Her mandate does not include schools, and she has not considered the rights of other children.

Schools and the DfE cannot rely on the Cass Review (or NHS policy in general) as a safe harbour for what it is lawful for them to do.

Doctors consider the particular situation of an individual patient but schools are rules-based institutions. They can accommodate gender non-conformity such as hairstyles and clothing which remains within their uniform rules (and should re-examine practices that are based on sex stereotypes such as allowing only boys to play football or only girls to take dance, or that girls must have long hair and boys must have short hair). But enabling a "social transition" by treating a child as the opposite sex, or disapplying sex-based rules, is not a clinical decision or a matter of self-expression. Hilary Cass correctly identifies that such social transition is an active intervention in the mental health of the child involved. But she does not consider whether it is right to compel other children to take part in this.

Without central guidance, schools are facing escalating expectations from children and parents, and may make differing and ad hoc decisions regarding "social transition" – that is, treating children as if they are members of the opposite sex for some or all school rules. But a child whose social transition is facilitated in one school is likely to expect it to be facilitated throughout their school career, impacting on the rights of many other children, not only those who could practically be considered or consulted in that class or school.

Any school that facilitates social transition is unilaterally making a decision that may run counter to policies in other schools and to the rights of other pupils.

Deciding which aspects of social transition can and should be accommodated in schools is properly a matter for the education system's regulator. The DfE therefore needs to lay out clearly what schools must, and must not, do when asked for special accommodations by children who are experiencing gender-related distress.

This requires the DfE to be very precise in analysing the steps that are requested, and not packaging them up as "social transition". These steps vary in terms of who is responsible for them, how much they affect other people, and whether or not they can safely and lawfully be accommodated in a school environment. The DfE's analysis must consider the impact on other pupils, as well as on the functioning of that school, other schools and the education system as a whole.

Can schools lawfully accommodate social transition?

What may “social transition” involve?

Action	Is this lawful?	Are schools required to do it?	What else do schools need to consider?
Recording a child on the register as the opposite sex	No. Schools are required, by law, to record a child’s sex in their records.		
Requiring that teachers and other pupils act as if the child has changed sex	No. Other people have rights, and it is not consistent with safeguarding .		
Admitting a child to a single-sex school of the opposite sex, on the basis of gender identity	For maintained schools this would contravene the Admissions Code.	No. The Equality Act does not require this.	Admitting a child as if they are the opposite sex would be impractical and infringe other children’s rights.
Fulfilling a child’s request to change the name they are known by for day-to-day purposes	Yes. Schools may record “known by” names in addition to the child’s actual name.	No. There is no statutory requirement to do this.	Parents have a right to information a school holds on their child. This can be withheld where it might cause serious harm to the pupils’ physical or mental health.
Allowing a child to use opposite-sex facilities	No. Schools are required to provide separate-sex facilities.	No.	
Allowing a child to play in opposite-sex sports	Not explicitly unlawful. But could lead to discrimination against other pupils, and to health and safety risks.	No.	It is not a decision that is sustainable as a child and their cohort grow up.
Allowing a child to disregard other sex-based rules (such as uniform)	Not explicitly unlawful. But raises the question why the school has unnecessary sex-based rules.	No.	

As this analysis demonstrates, schools cannot accommodate social transition while fulfilling their statutory obligations. This is because:

- A child must continue to be recorded as their actual sex throughout their school career. This information is on the register and available to teachers and staff.
- A child and their family have personal autonomy when it comes to self-expression, but a school cannot require other children and teachers to pretend that a child has changed sex.
- Where a school has sex-based rules, there should be a good reason for them. If some children can be treated as exceptions (because of trans identification or for some other reason), that suggests the reason was not strong enough to justify sex-based rules in the first place.
- If treating children differently according to sex is justified, that justification does not disappear because a child identifies as trans. The sex-based rules will still apply to them.
- A school, at a single point in time, cannot possibly fully consider the impacts of a decision to socially transition both for that child and for other children across all their school careers. Staff at the school will not be medically trained.
- A school cannot explain to all teachers, other pupils and parents why it allows one child to be treated as the opposite sex and to breach sex-based rules while not allowing another child. Any such attempt at explanation would involve disclosing details of a child's broader wellbeing, medical history and so on.
- It is unfair to place the responsibility for saying no to the requests of trans-identifying children on individual schools, or even pupils, instead of giving decision-makers in schools the protection of a clear rule which they must follow. There is a real risk that doing so will expose them to bullying.

Litigation risk

It is the DfE's statutory responsibility to set this out unequivocally in its guidance, and to ensure that schools comply. Failing to do so would expose schools to pressure, conflict and litigation.

Among those who might seek to litigate against responsible bodies of schools are parents of pupils:

- for whom a school permits some aspects of "social transition" but not other aspects
- who are denied permission to socially transition at school when others are granted permission
- who have been transitioned at school without parents' consent, or perhaps even without parents' knowledge

- who experience disciplinary action or discrimination because of issues arising from a classmate's social transition
- who are concerned that their child's special educational needs, disability or mental-health difficulties have not been adequately protected in the context of a school socially transitioning the pupil.

If the DfE fails to set out the reasons why full social transition should be barred in schools, it may be subject to litigation too.

Promoting social contagion

As well as individual litigation risk it is important that the DfE understands that promoting the idea of "social transition" in schools creates an attractive target for children who are gender non-conforming, or may simply be unhappy, confused, quirky or have mental-health issues.

It is irresponsible to encourage children to believe that they might be "born in the wrong body", or that they have a right to demand that others around them perceive them as the opposite sex.

They have no such right, and the possibilities for anatomical change via hormones and surgery are much less (and the implications much more serious) than children can understand. Promoting "social transition" in school is setting children up for inevitable bitter disappointment which will go to the heart of their being in adult life. It is a grossly reckless – and cruel – experiment with their mental health.

In the order of 10,000 children are currently seeking gender-related healthcare through the National Health Service. This is 0.1% of the school population. The NHS is already struggling to determine how to best treat these children's mental and physical health.¹²

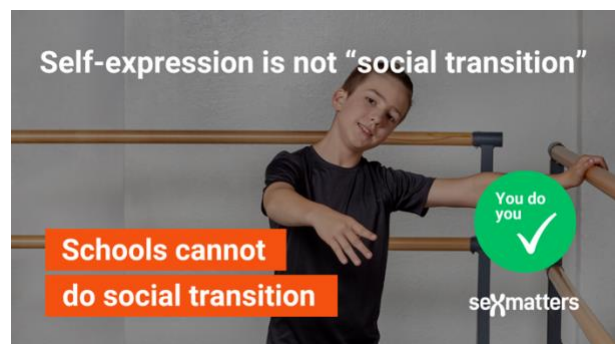
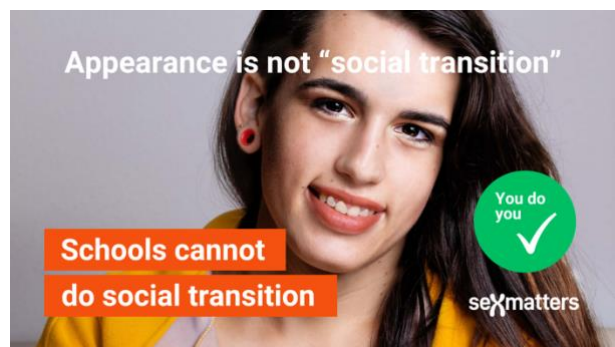
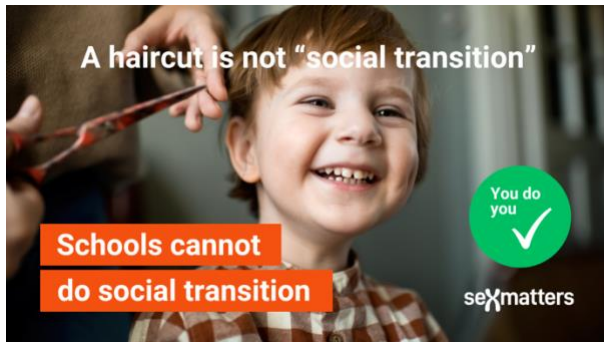
The number of children who might be socially transitioned in school (and therefore seek medical treatment in future as their bodies diverge from the expectation that they have been given that they can be treated as the opposite sex) is around five times greater. **We estimate that between 33,000 and 65,000 children may be seeking to socially transition in school already (0.4–0.7% of pupils in school).**¹³ This number is likely to increase if there is official DfE guidance endorsing social transition in schools.

¹² In the year 2021–22, the Tavistock GIDS records show that 3,585 children were referred. There are around 7,600 children on the waiting list.

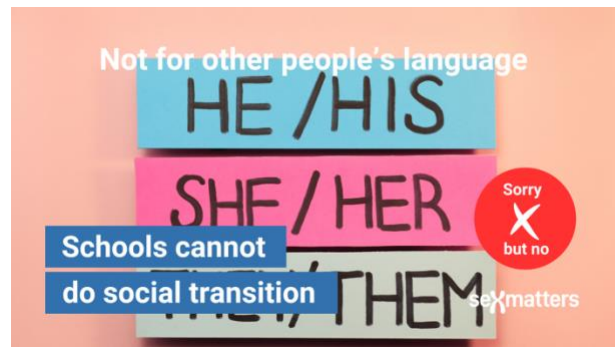
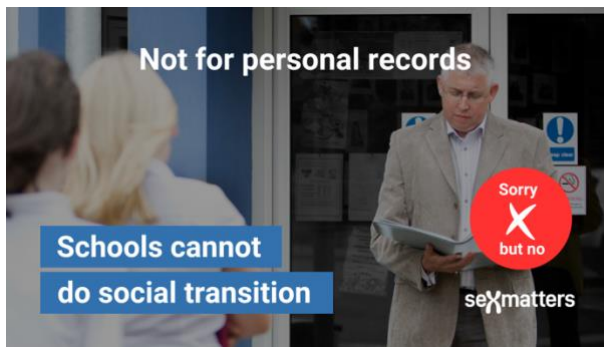
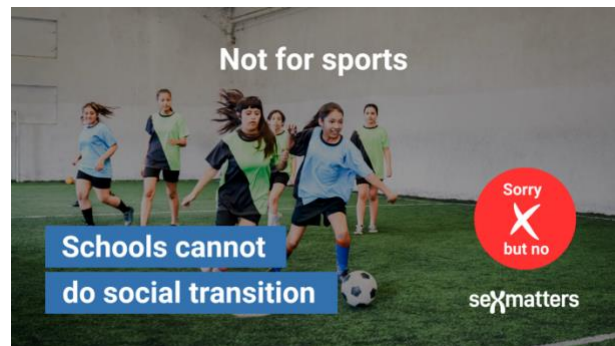
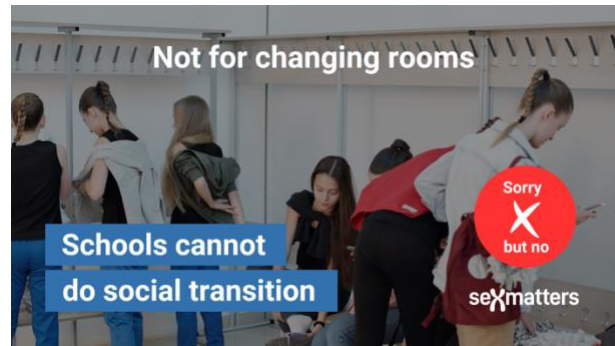
¹³ Secondary schools where gender identification has become popular typically report having between 10 and 20 children identifying as trans or non-binary; primary schools tend to have one or two. We have based our estimates of prevalence on the Teacher Tapp survey (reported by BBC News in May 2023, 'Teachers walk tightropes in face of no trans guidance'), which says that 8% of primary-school teachers and 75% of secondary-school teachers said they taught trans or non-binary pupils, assuming that teachers are referring to trans-identifying children in the school, not necessarily in their class this year: *[continued on page 9]*

Simple, clear guidance is needed

The DfE should offer schools, parents and pupils simple, clear guidance that supports gender non-conformity and self-expression while clarifying that “social transition” is not possible in schools.



Low secondary school estimate: 4,190 secondary schools in England x 10 x 75% = 31,425 pupils
 High secondary school estimate: 4,190 secondary schools in England x 20 x 75% = 62,850 pupils
 Primary school estimate: 16,769 primary schools in England x 2 x 8% = 2,683 pupils



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