

Sex-based rules and record-keeping

- a whole-school model policy



sexmatters

sex-matters.org/schools-policy



About this model policy

This model policy for schools has been developed by the human-rights charity Sex Matters in line with legislation and Department for Education and EHRC guidance (see page 7). It draws on inputs from parents, teachers, lawyers and safeguarding experts.

It is a whole-school policy that concerns how a school records, communicates and uses data on the sex of all pupils, and the rules and routines it has that treat girls and boys differently but fairly.

Schools must ensure that their practices, rules and policies meet their statutory obligations, and do not result in unlawful discrimination. Where a practice, rule or policy could result in a detriment related to any protected characteristic, the school or college must be able to show that the rule or policy is “a proportionate means of achieving a legitimate aim”.

Every child is protected against discrimination based on the protected characteristic of sex (male and female) as well as other protected characteristics they may have. Recognition of children’s sex is crucial to safeguarding.

As children develop, their understanding of concepts like “man” and “woman”, “boy” and “girl” develops, as well as their own sense of self and capacity to make autonomous decisions. Some children go through a period of distress or confusion about being female or male (a girl or a boy). If this distress is marked and persistent and impairs their social or other important areas of functioning, they might be referred for multi-disciplinary support within the healthcare system. This does not mean they have changed sex.

This model policy is informed by the findings of the Cass Review (see page 32), and is designed to help school and college leaders be confident that their policies do not subject any children to unlawful direct or indirect discrimination under the Equality Act 2010, in relation to any of the protected characteristics of sex, belief, disability and gender reassignment.



This policy has been developed to suit a mixed-sex non-residential school in England. Slight adaptations would be needed for other types of school or college. Sections in square brackets are to be adapted for the individual school.

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Purpose of the policy

1. The purpose of this policy is to inform pupils, parents and staff about policies in relation to girls and boys at [X] school.

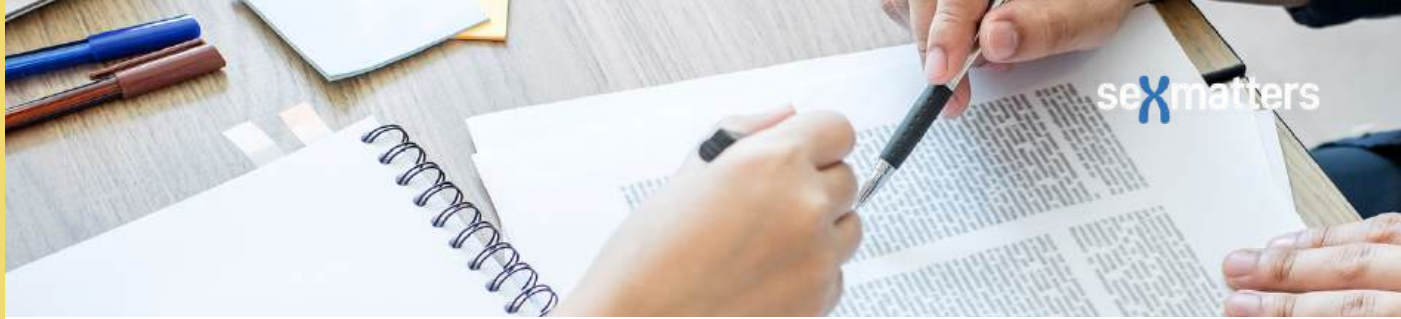


Scope of the policy

2. The policy applies to all pupils in relation to all school policies, including admissions, data records, behaviour, teaching and learning, pastoral care, health and safety, safeguarding and complaints.
3. The policy clarifies how our rules, routines and information systems recognise the two sexes (female and male). It sets out where there are different provisions, criteria or practices in relation to girls and boys and why these are justified. All teachers and staff are required to communicate and apply the rules consistently.
4. This is a whole-school policy. There is a section which sets out how the needs of pupils who are “gender questioning” (going through a period of distress or confusion about being a girl or a boy) are addressed to ensure that they are not treated less favourably than other pupils, and are able to access and enjoy the same opportunities at school as any other pupil (see paragraphs 67-76).



Department
for Education



Legislation and guidance

5. This policy has been developed to be in line with:
 - a. Section 175 of the Education Act 2002 and the statutory guidance *Keeping children safe in education 2023*
 - b. Sections 10 and 11 of the Children Act 2004 and the statutory guidance *Working together to safeguard children 2023*
 - c. Human Rights Act 1998
 - d. Equality Act 2010 including the Public Sector Equality Duty
 - e. UK General Data Protection Regulation (GDPR) and Data Protection Act
 - f. Section 434 of the Education Act 1996 and subsequent regulations
 - g. The Education (Pupil Registration) (England) Regulations 2006 and the Education (Pupil Information) (England) Regulations 2005
 - h. The School Premises (England) Regulations 2012 and the Education (Independent School Standards) Regulations 2014, as amended
 - i. Part 3 of the Children and Families Act 2014
 - j. SEND code of practice: 0 to 25 years (2015)
 - k. Section 100 of the Children and Families Act 2014 and statutory guidance on Supporting pupils at school with medical conditions (2015)
 - l. Political impartiality in schools: Sections 406 and 407 of the Education Act 1996.

6. It draws on non-statutory guidance from the Department for Education and Equality and Human Rights Commission:
 - a. *Gender Questioning Children: non-statutory guidance for schools and colleges in England* (draft 2023)
 - b. *Behaviour in schools: advice for headteachers and school staff* (2022)
 - c. *Gender separation in mixed schools* (2018)
 - d. *School uniforms: guidance for schools* (2023)
 - e. *Searching, screening and confiscation: guidance for schools* (2022)
 - f. *Technical guidance for schools* (EHRC, 2023).

It also draws on the final report of the Independent Review of Gender Identity Services carried out by Dr Hilary Cass for NHS England. (See the annex at page 32 for more on the implications of the Cass Review for schools.)





Guiding principles

7. All children deserve to learn in an environment that is calm, safe and supportive, where they are treated with dignity. The school seeks to have simple, clear and well-communicated expectations of behaviour and routines that are understood and practised. We ensure that rules and consequences are applied fairly and consistently. This is supported by our **behaviour policy**.
8. The safety, wellbeing and protection of our pupils are paramount in the development of all our policies and all decisions made by school staff. Every staff member is trained to take appropriate action in a timely manner to safeguard and promote our pupils' welfare. Our approach is set out in our **safeguarding policy**.
9. The school values all its pupils and aims to create an inclusive culture and learning environment that protects everyone from unjust or unfair treatment based on sex, race, disability, religion and belief, pregnancy and maternity, sexual orientation or gender reassignment. This is supported by our **equal opportunities policy**.
10. We seek to avoid **sexism**; that is, promoting narrow stereotypes about the interests and aptitudes of girls and boys. Where we have policies that treat children differently because of their sex we have made sure these are justified.
11. The school seeks to establish and maintain an environment where pupils feel secure, are encouraged to talk and are listened to when they have a worry or concern. Our approach is set out in our policy on **pastoral care**.
12. The school is welcoming and supportive of pupils with medical conditions and special educational needs. It endeavours to provide pupils with medical conditions with the same opportunities and access to activities (both school-based and out-of-school) as other pupils. No child will be denied admission or prevented from taking up a place in this school because arrangements for their medical condition have not been made. Our approach is set out in our **policy for supporting pupils with medical conditions** and our **special educational needs and disabilities policy**.
13. The school aims to treat all pupils with dignity and respect. Bullying is not tolerated and is dealt with in an appropriate and timely manner. Our approach is set out in our **anti-bullying policy**.





Terminology

- 14. Sex:** refers to whether someone is male (a man or boy) or female (a woman or girl). Sex is sometimes referred to as “gender” (for example in the term “gender equality”), but this does not change the meaning of the terms man/boy and woman/girl. Sex is a biological characteristic which is fixed. It is also a protected characteristic under the Equality Act 2010.

There is no mechanism to change a child’s legally recognised sex (unless it was inaccurately recorded at birth), or to treat a girl as a boy or vice versa within the education system. We use clear sex-based language about all pupils.

- 15. Boy:** a male pupil (related words: male, man, he, him, his, son, brother, nephew).
- 16. Girl:** a female pupil (related words: female, woman, she, her, hers, daughter, sister, niece).





Why we have sex-based rules and record-keeping

17. We are required by law to **register each pupil's sex and legal name** and to pass this information to their next school if they transfer. All information we record about a child throughout their school career must be accurate to comply with data-protection laws and regulations concerning pupil records.
18. In order to safeguard children individually, and as a group, it is often necessary to consider **risk factors in relation to their sex** and the sex of others, and always to record their sex accurately.
19. The school seeks to provide **equal opportunities** for girls and boys and not to promote stereotypes about the interests and ambitions that children can have based on their sex. We separate boys and girls or apply different rules to girls and boys only where this is justified, as set out in this policy.
20. We seek to promote **respect and appropriate behaviour** between boys and girls as they grow up through puberty. This includes respect for bodily privacy. We are aware of the risks of children undertaking harmful sexual behaviour and act to prevent and respond to it.
21. Rules, routines and behavioural expectations are set out both in written policies and statements and in verbal instructions issued by teachers and other staff. We use consistent, **clear sex-based language** (boy/girl, male/female, he/she) in order to communicate expectations to all pupils, in line with our **behaviour policy**.
22. Our policies that relate differently to girls and boys **are based on categories, not individual assessment**, in order to protect all children and provide clear expectations of behaviour. We cannot allow any individual pupil to be treated as the opposite sex, as this would create unclear expectations overall, as well as risks and confusion both for that child and for other children. For example, pupils (and their parents) are entitled to expect that where the school has separate-sex facilities for changing and washing, pupils will not be expected to share the space with pupils of the opposite sex.



Admissions and the pupil register

23. Every pupil's sex and legal name is recorded in the admissions register, based on their birth certificate or transfer of records from a previous school and any formally certificated name changes.
24. These particulars are replicated throughout school information systems and must remain accurate wherever they are recorded. A pupil's commonly used ("known as") name may be recorded alongside their legal name, following the procedure set out in this policy.
25. It is not possible to keep the information that a pupil is a boy or a girl confidential within the school or to misrepresent it such that a girl is referred to as a boy or a boy as a girl. This is because we are legally required to record each pupil's sex accurately, and we need to use this information routinely in relation to rules, policies, risk assessment and safeguarding.
26. Legal changes of name are recorded in the admissions register and throughout school systems on receipt of an enrolled deed poll from the parents, or from the pupil if over 16.
27. If a pupil wishes the school to use a preferred name that differs from their legal name, this can be requested. It is recorded as a "known as" name on the pupil's central record and will be used in day-to-day situations (for example on a child's peg, on workbooks and in verbal interactions). A known-as name may be recorded at enrolment or requested via a form available from [...].
28. The school must be satisfied that, taking into account all the circumstances, using a "known as" name is in the best interests of the child. The school will not normally consider recording a "known as" name without the consent of a parent.
29. Teachers and other staff will refer to a pupil by their "known as" name only if it has been registered with the school. Teachers should not refer to pupils by nicknames outside this process.
30. Adoption of a name which is conventionally associated with the opposite sex, or is androgynous, does not create any other change of status for the pupil, or for the language used about them (such as girl/boy or she/he).





Toilets and changing facilities

31. Our aim is to provide clear rules, meet legislative requirements for school premises and ensure adequate bodily privacy and dignity for girls and boys.
32. The school provides separate toilets for staff and for pupils, and separate toilets for girls and boys. [There are also unisex facilities used by pupils in ...]. Girls' toilets [in secondary/in juniors] contain disposal bins for menstrual products.
33. The school provides separate changing [and shower] facilities for girls and boys, or facilities that are used at different times by groups of girls or boys.
34. Pupils should use only the toilets, changing and washing facilities that are designated for their use, as directed by staff and signage.
35. We have strict rules and routines to prevent anti-social behaviour in and around the toilets and changing rooms.
36. When undertaking external trips (such as subject-matter trips or sports fixtures) the school will make sure that there are adequate and safe toilet, changing and washing facilities (as appropriate) for girls and boys. These will generally be either single-sex facilities or unisex fully enclosed facilities.
37. The school building also has accessible [toilets/changing facilities/showers] for children with particular needs at [locations].
38. If a child is unable to use conventional toilet facilities and routines because of any medical need or behavioural issue, alternative facilities or routines may need to be provided. This arrangement should be recorded in an individual healthcare plan (covering both in-school facilities and external trips) and agreed with a parent. The healthcare plan should have a review date.
39. We will not draw up an individual healthcare plan to allow a child to use facilities designated for the opposite sex. The reason for this is that it would undermine clarity about behaviour and rules designed to protect bodily privacy for all pupils.





Sports

40. We aim to make sure that girls and boys have equal access to sporting opportunities and we pay particular attention to overcoming barriers to participation by girls.
41. Not all sporting activities at school are separated by sex, but where they are this is for safety and fairness. In considering whether a sport, game or other activity should be offered separately to girls and boys, we take into account the age and stage of development of that age group in general, not of each individual.
42. Physical education (PE) is a vital part of a broad and balanced education, and a compulsory subject in maintained schools. All children are expected to participate in PE in the appropriate age and sex groups.
43. We work to identify and overcome barriers to learning and participation for pupils with special educational needs and disabilities, to ensure that every child experiences success in their learning and progresses to their best possible standard, and to enable all children to participate in lessons fully and effectively, including PE. Where a child needs special provision in relation to PE in order to access learning, this will be agreed through the individual SEND or healthcare planning process.
44. An individual SEND or healthcare plan will not include provisions that allow a child to be included in sport provided for the opposite sex. The reason for this is that where sports are separated for fairness and safety these categories should be maintained.





Uniform

45. Uniform and appearance requirements are set out in our [uniform policy/dress code]. This has been agreed by the school's governing board in line with statute.
46. The aims of our uniform policy are to [promote the ethos of the school, remove distractions from learning, set an appropriate tone for education, create habits of good grooming, provide a sense of belonging and identity, or other specific school policy].
47. The school uniform has been designed to suit both girls and boys and to require a similar standard of conventional, smart dress.
48. [All/Most] parts of the uniform, such as trousers, shirt, tie and blazer, are common to both sexes. [Some elements of our school uniform/dress code only apply for boys or for girls as set out in the uniform policy/dress code. We consider that these differences are justified in order to allow us to set standards of conventional smartness and to accommodate bodily, cultural and religious differences.]
49. Everyone is held to the same standard of compliance with the appropriate school uniform requirements [for their sex] and year group. Consequences for non-compliance are set out in our **behaviour policy**.
50. If a pupil and their parents request flexibility in the school dress code to observe their religious or other beliefs, or as a reasonable adjustment for a pupil with a medical condition or SEND, this may be considered.
51. [If a school has sex-based uniform rules: We do not allow individual pupils to wear uniform items designated for the opposite sex in our dress code. The reason for this is that a child wearing items of the uniform that are only allowed for girls or boys is likely to be perceived by others as being of that sex (for example by other students, or by staff supervising large numbers of children in circulation spaces and in relation to toilets). This undermines the smooth running of the school and the communication and enforcement of our rules and expectations, which are designed to protect all pupils.]





Residential accommodation and trips

52. External trips are an important enrichment of school life. We plan them with full risk assessment and seek to make them accessible to all.
53. Sleeping arrangements are organised by sex. Girls and boys will have separate sleeping arrangements, as well as appropriate and separate facilities for washing.
54. Children and parents with any concerns or anxiety about external trips should contact the organiser in advance to discuss particular needs.

Separate lessons or activities

55. Most lessons, subjects, and extracurricular activities other than sport are provided to both sexes together. Separate provision is limited to situations where the school has identified that:
 - a. girls or boys suffer a disadvantage connected to their sex
 - b. girls or boys have needs that are different from the needs of the other sex (i.e. educational or pastoral needs, in particular relating to their bodily privacy)
 - c. participation in an activity by girls or boys is disproportionately low.
56. In practice we offer [list exceptions, for example specific PSHE lessons or a mentoring programme for girls studying STEM subjects]. Any further lessons or activities provided only for girls or only for boys must be agreed by the [headteacher/leadership team].
57. Where lessons or activities are provided separately to girls and boys, children of the opposite sex will not be admitted.
58. In general girls and boys are treated equally, without emphasising sex differences. Within classes we do not seat boys and girls alternately or divide classes into boys and girls.





Searching

59. It is occasionally necessary for a pupil to be searched. Only the headteacher, or a member of staff authorised by the headteacher, can carry out a search. The law states that the member of staff conducting the search must be of the same sex as the pupil being searched. We follow DfE guidance on conducting searches in line with the law. We are clear that both the sex of the pupil and the sex of the member of staff refer to biological sex, not gender identity.

Safeguarding

60. Our **safeguarding policy** applies to all pupils. As required by *Working together to safeguard children*, we recognise parents as the primary carers of their children. We work alongside parents in all decisions regarding their children unless in our assessment the parents present or might present a risk of harm to their child. We also work in partnership with other relevant agencies. These principles apply equally to children with all protected characteristics. If any member of staff is concerned about a child, they must inform the designated safeguarding lead and record their concerns on the same day, in the usual way.
61. If a child confides in a member of staff or volunteer and requests that the information is kept confidential, it is important that the member of staff or volunteer tells the child – in a manner appropriate to the child’s age and stage of development – that they cannot promise complete confidentiality. Instead, they must explain that they may need to pass information to other professionals to help keep the child or other children safe.





Protection against harassment and bullying

62. Bullying is behaviour by an individual or group, usually repeated over time, which intentionally hurts another individual or group either physically or emotionally. Bullying includes name-calling, taunting, mocking and making offensive comments, offensive graffiti, excluding people from groups, gossiping and spreading hurtful or untrue rumours, kicking, hitting, pushing, taking belongings and cyber-bullying.
63. All pupils, staff and parents will be encouraged to value and respect others. Incidents of bullying and harassment will not be tolerated, including those based on sex, sexual orientation, gender non-conformity and beliefs about gender identity. The school works hard to ensure that all students know the difference between bullying, “falling out” and disagreeing, and to encourage tolerance, respect and equality consistent with the need to promote fundamental British values and the Equality Act 2010.
64. Excluding pupils from facilities for the opposite sex, and applying clear sex-based rules and using related language, are not bullying. Expectations will be stated clearly and respectfully by the school.

External organisations

65. We will not work with commercial organisations, charities or campaign groups, or use materials in lessons, which promote expectations or behaviours that are not in line with the Equality Act 2010 and DfE guidance, or which oppose the operation of our rules and policies.
66. We will take care in public displays, such as banners and posters and school-branded social media, to consider requirements regarding political impartiality and not promoting positions that undermine fundamental British values of democracy, the rule of law, individual liberty and mutual respect for those with different faiths and beliefs.



“Gender-questioning” children

The Department for Education, working with the government’s Equality Hub, has published draft guidance for schools and colleges in England about how they should respond to children who are experiencing gender-related distress (*Gender Questioning Children: Non-statutory guidance for schools and colleges in England*).

The DfE guidance is based on five general principles:

- a. Schools and colleges have statutory duties to safeguard and promote the welfare of all children.
 - b. Schools and colleges should be respectful and tolerant places where bullying is never tolerated.
 - c. Parents should not be excluded from decisions taken by a school or college relating to their children.
 - d. Schools and colleges have specific legal duties that are framed by a child’s biological sex.
 - e. There is no general duty to allow a child to “socially transition” (that is, to be treated as if they were the opposite sex).
- 67.** As a school we follow this guidance and have also taken notice of the findings of the Cass Review. We welcome all children and young people, and we seek to provide an inclusive environment. We aim to act safely, effectively and compassionately to support all pupils to access education, pursue their interests, use the school facilities and participate in the life of the school. Gender-questioning pupils are subject to the same rules and safeguards as their peers.
- 68.** As set out in this policy, we cannot safely or legally record or refer to a child as anything other than the sex that they are. The school cannot admit a child as if they were the opposite sex, agree to treat their sex as confidential or misrepresent their sex verbally or in writing. This would be incompatible with our legal obligations, behaviour policy and safeguarding, and would undermine the smooth running of the school and its ability to provide fair and safe access to education to all our pupils.



- 69.** Staff will ensure that children who are experiencing gender-related distress are afforded the same safeguarding protection as other pupils. This includes appropriate single-sex changing, sanitary facilities and sports, the raising of safeguarding concerns where appropriate and an atmosphere of curiosity about the situation of each and every child and how this may impact on their behaviour and presentation within the school environment. A child's welfare and best interests are our paramount priority and consideration.
- 70.** Staff should be aware that some children experiencing gender-related distress may also raise safeguarding concerns about significant changes in behaviour, performance or attitude, mental-health issues, self-harm, self-medication, emotional or sexual experiences in which they may have been significantly harmed, homophobic bullying, family breakdown, online harms or relationships that put them in danger.
- 71.** The school aims to support the health, wellbeing and educational attainment of children with mental health, physical health, welfare or pastoral needs and any child going through a difficult period. If a child is experiencing gender distress such that associated mental-health or behavioural issues are becoming a barrier to accessing education or are impeding their performance within the school setting, the school will consider adjustments where appropriate and reasonable, in consultation with parents, to ensure that the child is kept safe, can meet behavioural expectations and can access education. We will always consider the best interests of every child in the school: this requires considering both whether there is evidence that the requested changes will be beneficial to the child and the impact of any changes on other children. Any adjustments will be agreed with the parents as part of an individual healthcare plan, and kept under periodic review.
- 72.** Parents seeking accommodation for additional needs for a child experiencing gender-related distress should read this policy, and in particular the provisions setting out the clear rules against using opposite-sex toilets, showers and changing rooms, opposite-sex sports and other separate lessons. We will not consider requests to wear opposite-sex uniform, use opposite-sex toilets, showers or changing rooms, or participate in opposite-sex sports and other separate lessons, or for a pupil to be referred to by staff with opposite-sex language, since any of these will encourage the expectation that the status of the child's sex, and requirement to follow sex-based rules, have changed or will change during their school career.
- 73.** If distress about using appropriate single-sex facilities is becoming a barrier to the pupil's learning, possible adjustments might include agreeing that the pupil can use a separate (unisex) changing room or toilet for a period of time, where this is safe and practical. Any special arrangements should be agreed with the parents as part of an individual healthcare plan, and kept under periodic review.

74. If a pupil is taking external examinations, there is the option of having the male/female flag removed from qualifications systems by exam boards. Please contact the school office at least three months before the exam to ask for this option.
75. Breast-binders, prosthetic penis “packers”, prosthetic vulvas and prosthetic breast forms are not part of the [school uniform/dress code]. Parents and pupils should not make requests to bring these items to school or for flexibility to changing-room routines or to the dress code to allow for them.
76. Pupils may feel very strongly about their desire to live as the opposite sex, and may have a strong belief that any non-acceptance of their requests is “transphobia” that will cause them harm. However, as the Cass Review found, clinical evidence does not support this. Young people may dismiss adult concerns about the risk and inappropriateness of particular behaviours. Parents, clinicians and other organisations working with children and young people to support their mental health and development must understand that the school cannot allow pupils to make decisions that put them and others at risk, or which disrupt the school. We treat all pupils with compassion while being clear that sex-based rules and policies, designed to protect all pupils, will apply for the whole time that they are at [X] school. We ask that parents, and professionals working with the child, support our school rules.



Annex: The Cass Review



The mandate of the independent review of gender identity services for children and young people (the Cass Review) was to make recommendations to NHS England on how to improve gender-identity services for children and young people.

The review's focus was on the individual child experiencing gender-related distress, and not the rights and welfare of other children. The best interests of all children also need to be considered in translating the Cass Review's recommendations into practical guidance for schools.

The Cass Review recommended that children and young people who are experiencing gender-related distress should receive the **same standard of healthcare and safeguarding as other children.**

It developed a holistic assessment framework for NHS clinicians to inform the development of individualised care plans, based on:

- exploration of the evolution of gender-related distress
- other factors that may be contributing
- the individual's needs and preferences.

Healthcare professionals, including GPs and paediatricians, should notify the school when a child has been identified as having mental-health issues that will require support at school.

To support the development of realistic plans and coordinated support for individual pupils experiencing distress, schools, local authorities and education regulators need to communicate clear expectations about the limits of possible accommodations to clinicians, parents and children.

There is no provision in the Cass Review for clinicians to require that schools waive sex-based rules.

Cass Review findings about gender-distressed children



The Cass Review found that children experiencing gender issues have a wide range of associated conditions and that for most of them, childhood gender incongruence is likely to resolve over time without medicalised transition. A holistic package of care, in the best interests of the child, may involve:

- supporting a young person to get back into school
- diagnosing autism or ADHD
- offering supportive group sessions
- offering talking therapies to help anxiety, depression or trauma
- building resilience
- working with the whole family to address breakdowns in relationships
- providing more information about gender expressions and the range of possible interventions.

The review emphasises that parents should be actively involved in any decisions about the care of their child, unless there are strong grounds to believe that this may put the child or young person at risk.

The central aim of the care plan is to help young people to thrive and achieve their life goals, starting with education. The focus will be on functioning, general wellbeing and resilience: improving the health and wellbeing of the child regardless of the longer-term decisions they may take in adulthood.

The Cass Review recommends that clinicians agree a tiered approach that:

- addresses urgent risk
- reduces distress and associated mental-health issues and psychosocial stressors, so that the young person is able to function and make complex decisions
- co-develops a plan for addressing the gender issues, which may involve a combination of social, psychological and physical interventions.

Statutory frameworks for schools

Schools are required to work within their own relevant legal frameworks (as set out on page 7). They have established governance, rules, policies and procedures designed to keep all pupils safe and to enable the efficient provision of education, including frameworks for supporting pupils with particular needs. These frameworks provide the basis for integrating the Cass Review’s findings and individual clinicians’ recommendations into a practical, compassionate and lawful approach.

- Schools have a statutory duty to make arrangements for **safeguarding and promoting the welfare of all pupils**.
- Section 100 of the Children and Families Act 2014 places a duty on governing bodies of maintained schools, proprietors of academies and management committees of pupil referral units to make arrangements for **supporting pupils with medical conditions** to access and enjoy the same opportunities at school as any other child. This is explained in statutory guidance.
- Part 3 of the Children and Families Act 2014 establishes the duties of local authorities, health bodies, schools and colleges to provide for those with **special educational needs**. These are explained in the Special educational needs and disability code of practice.
- Governing bodies must comply with their duties under the **Equality Act** not to unlawfully discriminate against pupils based on relevant protected characteristics. Some children with medical conditions may be considered to be disabled under the definition set out in the Equality Act 2010, and require reasonable adjustments. Children with gender-related distress may also be considered to be covered by the protected characteristic of “gender reassignment”.

A gender-questioning child may have the protected characteristic “gender reassignment”. This does not mean a child’s sex has changed, or that they must be treated as the opposite sex. Treating a child differently in relation to school rules and policies because they may have a protected characteristic **is likely to be direct discrimination**. Therefore schools must not encourage pupils to think a gender non-conforming boy should be excluded from appropriate facilities for boys, or a gender non-conforming girl from girls’ facilities.

The Cass Review findings do not suggest that there is a detriment to this group from not treating a child as the opposite sex at school, because:

- there is no clear evidence that “social transition” improves mental health
- there are studies demonstrating that gender incongruence resolves through puberty for the majority of young children
- trying to live “in stealth” as if they were the opposite sex increases a child’s level of stress and anxiety, with resultant behavioural and mental-health problems that include social withdrawal – which may lead to a child dropping out of school and even rarely leaving their house.

Responding to individual children in line with Cass and the law

A non-discriminatory approach to a child who is experiencing gender distress that is preventing them from thriving at school would be to use the existing frameworks for supporting pupils with pastoral issues, medical conditions or special educational needs and disabilities. A professed desire to “transition” should not overshadow safeguarding considerations, including risks such as family breakdown and online harms.

The Cass Review recommends that those already actively involved in the young person’s welfare provide support in decision-making and that the young person is protected from bullying and has a trusted source of support.

The review does not recommend that parents try to bring up a child as the opposite sex. It recommends that families and carers of prepubertal children with gender distress consult a clinician before embarking on any steps that reinforce cross-sex identities.

The Cass Review notes that adolescents have agency to experiment independently with aspects of “gender expression” such as hairstyles, make-up and clothing, which they may view as “social transition”.

Being clear about sex-based rules in school does not preclude children expressing themselves with steps such as haircuts, name-changes, mannerisms, or words used about themselves, so long as these comply with school rules and policies.

Individual healthcare plans and EHC plans for a child experiencing gender distress can include time-limited exceptions to general school routines and policies (such as providing alternative changing facilities) to allow a child to access education. These plans are kept under review.

There is no mechanism within the education system to change the status of a female child to male or vice versa. Recognising a child’s sex remains important for behaviour standards and safeguarding throughout their time at school.





**Sex Matters is a human-rights charity.
We campaign for clarity about sex
in law, policy and language.**



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