



Department
for Education

Gender Questioning Children

**Non-statutory guidance for schools and
colleges in England**

Draft for consultation

December 2023

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1. Foreword

Schools and colleges are places where children should be given the knowledge, the skills, and the opportunities to succeed in life.

In recent years, we have seen a significant increase in the number of children questioning the way they feel about being a boy or a girl, including their physical attributes of sex and the related ways in which they fit into society. This has been linked to gender identity ideology, the belief that a person can have a 'gender' that is different to their biological sex.

This changing picture has left schools and colleges in a position where they are having to navigate a highly sensitive, complex issue, which is still not properly understood. We appreciate how daunting this is for school and college staff and for parents and children too.

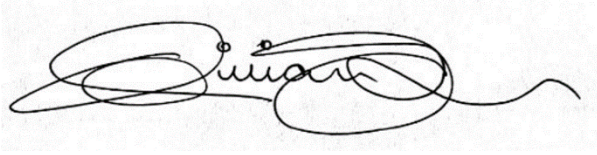
That is why, for the first time, the Department for Education, working closely with the Government's Equality Hub, has worked to produce this guidance to provide clarity for schools and colleges, and reassurance for parents.

Schools are facing requests to take actions such as changing names, uniforms, or using different facilities to help a child appear more like the opposite sex, with the expectation that they will be treated as if they are. This is often referred to as social transitioning. This guidance is based on a set of five general principles that schools and colleges can use to frame their response to such requests:

1. Schools and colleges have statutory duties to safeguard and promote the welfare of all children.
2. Schools and colleges should be respectful and tolerant places where bullying is never tolerated.
3. Parents should not be excluded from decisions taken by a school or college relating to requests for a child to 'socially transition'.
4. Schools and colleges have specific legal duties that are framed by a child's biological sex.
5. There is no general duty to allow a child to 'social transition'.

The Cass Review is clear that social transition is not a neutral act, and that better information is needed about the outcomes for children who undertake degrees of social transition. This means that schools and colleges should take a cautious approach and that decisions should never be taken in haste or without the involvement of parents. Schools and colleges should consider how best to fulfil their safeguarding duties towards the child who is making such a request and their peers, ensuring that any agreed course of action is in all of their best interests. There will be some requests for a type of social transition that will not be compatible with a schools legal duties, schools must abide by this.

We are now consulting on this guidance and welcome responses from the likes of parents, teachers, headteachers, pupils and clinicians. Nothing is more important than keeping children safe and we are grateful to all those who will help us to get this right.

A handwritten signature in black ink, appearing to read 'Gillian Keegan', with a long, sweeping tail extending to the right.

**The Rt Hon Gillian Keegan MP
Secretary of State for Education**

A handwritten signature in black ink, appearing to read 'Kemi Badenoch', written in a cursive style.

**The Rt Hon Kemi Badenoch MP
Minister for Women and Equalities**

2. About this guidance

This is non-statutory guidance from the Department for Education. Its focus is to provide practical advice, which we expect schools and colleges to follow to help them make decisions regarding children who are questioning their gender. Schools and colleges should make decisions to ensure that everyone is kept safe and treated with respect and understanding, within an environment that protects the rights of children fairly.

In making these decisions, schools and colleges must comply with their legal obligations, including those under the Equality Act 2010, the Human Rights Act 1998, the UK General Data Protection Regulation (GDPR) and education legislation.

2.1 Who is this guidance for?

This guidance applies to all schools, and is therefore aimed at:

- governing bodies of maintained schools (including schools with a sixth form) and non-maintained special schools;
- trustees or directors of academies and free schools;
- proprietors of independent schools (including academies and free schools);
- management committees of pupil referral units (PRUs);
- teachers, other school staff and school nurses;
- headteachers, principals, designated safeguarding leads or SENCOs, and senior leadership teams;
- dioceses and other faith representatives involved in the management and supervision of schools; and
- for reference, relevant local authority staff.

This guidance also applies to institutions within the ‘further education sector’ defined by the Further and Higher Education Act 1992, comprising:

- further education colleges;
- sixth-form colleges;
- institutions designated as being within the further education sector by that Act.

These bodies are referred to as ‘colleges’ in this guidance. This guidance does not apply to Independent Training Providers, including those which provide 16-19 education.¹

¹ Independent Training Providers are not covered by Part 6 of the Equality Act and are service providers under Part 3, and therefore the relevant law is different.

3. Overarching principles

In recent years, we have seen a significant increase in the number of children questioning the way they feel about being a boy or a girl, including their physical attributes of sex and the related ways in which they fit into society. This has been linked to gender identity ideology, the belief that a person can have a 'gender', whether male (or 'man'), female (or 'woman'), or 'other', that is different to their biological sex. This is a contested belief. Many people believe this concept is one that reinforces stereotypes and social norms relating to sex.

There are several ways in which parents and children might ask a school or college to accommodate a child who is questioning their gender. Such accommodation may mean a request to take actions such as changing names, uniforms, or using different facilities to help a child appear more like the opposite sex, with the expectation that they will be treated as if they are. This is often referred to as social transitioning.

This guidance is based on a set of five general principles that schools and colleges can use to frame their response to such requests.

1. **Schools and colleges have statutory duties to safeguard and promote the welfare of all children.** They should consider how best to fulfil that duty towards the child who is making such a request and their peers, ensuring that any agreed course of action is in all of their best interests. This may or may not be the same as a child's wishes. Knowing a child's sex is critical to schools' and colleges' safeguarding duties.
2. **Schools and colleges should be respectful and tolerant places where bullying is never tolerated.** Staff and children should treat each other with compassion and consideration, in accordance with the ethos of the school or college.
3. **Parents should not be excluded from decisions taken by a school or college relating to requests for a child to 'socially transition.'** Where a child requests action from a school or college in relation to any degree of social transition, schools and colleges should engage parents as a matter of priority, and encourage the child to speak to their parents, other than in the exceptionally rare circumstances where involving parents would constitute a significant risk of harm to the child.
4. **Schools and colleges have specific legal duties that are framed by a child's biological sex.** While legislation exists that allows adults to go through a process to change their legal sex, children's legal sex is always the same as their biological sex.
5. **There is no general duty to allow a child to 'social transition.'** The Cass Review's interim report is clear that social transition is not a neutral act, and that better information is needed about the outcomes for children who undertake degrees of social transition. If a school or college decides to accommodate a request, a cautious approach should be taken that complies with legal duties. Some forms of social transition will not be compatible with schools' and colleges' statutory responsibilities.

4. Language and Terminology

The language used in this area has evolved over recent years and people use different ways to describe themselves. In this guidance we have tried to use language and terms that provide clarity, avoid colloquialisms and capture the range of children's experiences, from questioning their gender through to gender distress or dysphoria. We have not used the term transgender to describe children. Under UK law children cannot obtain a Gender Recognition Certificate and therefore cannot change their legal sex.

For the purposes of this guidance, the terms **child** and **children** refer to anyone under the age of 18. Where there are different requirements for schools and colleges, the guidance refers to children at school and colleges as **pupils** or **students**.

In institutions serving post-16 children, pupils and students under the age of 18 might share classes with those over the age of 18 (**adults**). The considerations for colleges will generally be the same for these individuals as they are for pupils and students under the age of 18.

The term **parents** refers to any adult with parental or caring responsibilities for a child.

Gender identity: is a contested belief. It is a sense a person may have of their own gender, whether male, female or another category such as non-binary. This may or may not be the same as their biological sex. Many people do not consider that they or others have a gender identity at all.

Gender questioning: is a broad term that might describe children and young people who are asking questions about their biological sex and perceived gender identity.

Gender distressed or confused: is a way of describing distress or confusion that may arise from a broad range of experiences connected to a child's understanding of their biological sex and associated attributes and behaviours, but where a formal diagnosis of gender dysphoria has not been made.

Social transition: is a term often used to refer to a process by which people change their name, pronouns, clothing, or use different facilities from those provided for their biological sex. Not all people who go through this process will do so in the same way. Not all requests made to schools or colleges will comply with legal duties to safeguard children. Social transitioning is not a neutral act, as it has been recognised that it can have formative effects on a child's future development.

Gender incongruence: is a medical diagnostic term for a marked and persistent incongruence between an individual's experienced gender identity and their biological sex.

Gender dysphoria: is a similar diagnostic term to describe gender incongruence of at least 6 months' duration, which is manifested by a number of criteria. The condition is

associated with clinically significant distress or impairment in social or other important areas of functioning.

We use the terms 'must' and 'should' throughout the guidance. We use the term 'must' when the person in question is legally required to do something in all cases. We use 'should' when the guidance sets out the Department's expectation.

5. Responding to Requests and Engaging Parents

Children questioning their gender may make different requests. Schools and colleges should not proactively initiate action towards a child's social transition. Action should only be considered after it has been explicitly requested by the child, and the steps set out below have been followed, including engaging with parents. There could be instances where children disclose first to their teachers that they may be questioning their gender. If there is no change being requested, teachers can listen respectfully about a child's feelings without automatically alerting parents, but, for safeguarding reasons, cannot promise confidentiality. If a school or college wishes to accommodate degrees of social transition, they are advised to do the following:

- **Allow for watchful waiting:** Wait for a period of time before considering a request, to ensure it is a sustained and properly thought through decision. This period of 'watchful waiting' may help to ensure unnecessary action is not undertaken.
- **Make parents aware:** If a child requests a change, schools and colleges should make parents aware of the situation and can point them to support outside the school environment (for example, pastoral or medical support) if they request more information. The only exception to this is the very rare situation where informing parents might raise a significant risk of harm to the child.

If, after a period of watchful waiting, the child would still like their request to be granted, schools and colleges, involving their designated safeguarding lead, are advised to take into account the following points:

- **The school or college's safeguarding obligations:** Legal duties will differ depending on the request. These are outlined in the guidance below. Where the guidance advises that schools or colleges should adopt a certain approach, or are able to set clear rules in a particular area, this should apply in the overwhelming majority of cases and be the starting point for decision making. However, in some areas, the school or college must be prepared to depart from the expected approach or from those rules in the exceptional case where it is necessary to do so to safeguard and promote the welfare of a child. In doing so, they should note that safeguarding requires an individual to consider what is in the best interests of the child, which may not be the same as the child's wishes. The guidance states where schools or colleges do not need to consider an exception.
- **The view of parents:** It is important that the views of the child's parents should carry great weight and be properly considered. We would expect parental consent to be required in the vast majority of cases.
- **The age of the child:** Age is a factor whenever making a decision of this nature. Requests from younger children in primary schools should be treated with greater caution. They are more vulnerable as they are less able

to articulate their feelings and will have a less mature understanding of complicated issues.

- **Any relevant clinical information that is available:** While neither children or their parents are obligated to share medical advice with schools and colleges, where such advice is available, schools and colleges should factor it into their decision making.
- **The seriousness and context of the request:** Schools and colleges should take into consideration whether the child has made similar requests previously, and whether the child has properly considered the impact of their requests. As part of testing whether this is a sustained request, schools and colleges should seek to understand societal or other factors that may have in-fluenced the child, for example:
 - Has the child been influenced by peers or social media?
 - Does the child feel pressured to identify differently because they simply do not align with stereotypes associated with their sex? This is relevant as some people think gender identity reinforces stereotypes about men and women.
 - Whether it may be appropriate for schools and colleges to seek input from the SENCO or college's SEND lead.
 - Is there an interaction with a child's sexual orientation? Schools and colleges should note that the Cass Review 'heard from young lesbians who felt pressured to identify as transgender male, and conversely transgender males who felt pressured to come out as lesbian rather than transgender'. Where a child discloses that they are also questioning or exploring their sexual orientation, schools should make clear that they are under no pressure to reach a particular outcome.²
- **The long- and short-term impact on the child:** We do not yet have definitive evidence on the long- and short-term impact of changes on children, but the Cass Review's interim report is clear that it could have significant psychological effects on a young person. Schools and colleges should therefore take a cautious approach.
- **The impact on other pupils:** Schools and colleges should consider the impact on other pupils, including any safeguarding concerns. Once schools and colleges have balanced all the factors above, including the impact on

² The Cass Review, Independent review of gender identity services for children and young people: Interim report.

the child, they may conclude that the impact on the school and college community is such that it may not be possible to agree to support a request.

Completing the above steps will not be sufficient to allow a gender questioning child access to spaces designated for the other sex, or to sports where it is not safe or fair to take part with the opposite sex. For these matters, schools and colleges should follow the guidance included later in this document.

Following the process for decision making will ensure that all members of staff are supporting the child in a consistent way. Members of staff should not unilaterally adopt any changes, including using a new name or new pronouns, unless or until this has been agreed by the school or college in accordance with the proper procedures and, in the vast majority of cases, parental consent, as set out in this guidance.

If and where any change has been agreed, the school or college should communicate this to other pupils and staff where it is necessary and proportionate to do so. This should be done sensitively, without implying contested views around gender identity are fact. Other pupils, parents and teachers may hold protected religious or other beliefs that conflict with the decision that the school or college has made, these are legitimate views that must be respected.

6. Handling Different Information and Requests

This guidance sets out the different types of requests that could be made and what schools' or colleges' legal duties are in relation to them, as well as where the school or college may exercise its discretion.

6.1 Registration of Name and Sex

Every school must know and record the name and sex of every pupil in the admissions register. Schools must store and process a pupil's data according to the law. By law, schools and colleges must safeguard and promote the welfare of children for whom they provide education. It is often necessary to know a child's sex in protecting them or others from harm. Schools should make sure that all relevant staff are aware of a gender questioning child's biological sex. Having the correct information about a child is important in the context of schools and colleges fulfilling their safeguarding duties.

For all schools, the information to be contained in a school admissions register is statutory and is set out in section 434 of the Education Act 1996 and subsequent regulations. The Education (Pupil Registration) (England) Regulations 2006 set out that the school is required to register each pupil's sex (along with their name, date of birth and other details).

Schools and colleges must record a child's sex accurately wherever it is recorded. All those who process others' personal data have to follow strict rules set by the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA). One of the principles of data protection is accuracy. It is not accurate to record a male child as female or a female child as male, or to record a male child as a girl or a female child as a boy.

6.2 Changing Names

Schools must record a child's legal name in the admissions register. They may allow pupils to change their informal ('known as') name if they believe it is in the best interests of the child to do so. Having fully consulted with the child's parents, schools and colleges can allow a child to change the name by which they are known. It is not uncommon for people to be known by names other than those on their birth certificate. However, due consideration still needs to be given by the school or college to all the relevant factors described above before making a decision. Where the informal name change is agreed, the new name should be communicated to the school or college community.

6.3 Pronouns

Agreeing to a child's request to have others use different pronouns about them is a significant decision. Primary school aged children should not have different pronouns to their sex-based pronouns used about them.

For older children, schools do not need to specify pronouns to be used about each pupil and can decline a request to change a child's pronouns. Where a school or college considers a child's request, they should consult the child's parents and consider all the relevant factors as outlined above. Having considered these factors and examined all the evidence, schools and colleges should only agree to a change of pronouns if they are confident that the benefit to the individual child outweighs the impact on the school community. It is expected that there will be very few occasions in which a school or college will be able to agree to a change of pronouns. On these rare occasions, no teacher or pupil should be compelled to use these preferred pronouns and it should not prevent teachers from referring to children collectively as 'girls' or 'boys,' even in the presence of a child that has been allowed to change their pronouns. Even in the exceptional case where safeguarding requires a school or college to take an alternative approach, schools and colleges should exhaust all other options, such as using first names, to avoid requiring other individuals having to use preferred pronouns. In these exceptional cases, schools or colleges should make sure that all relevant staff are aware of a gender questioning child's biological sex, to fulfil their safeguarding and legal duties.

In all cases, bullying of any child must not be tolerated. No child should be sanctioned for honest mistakes when adapting to a new way of interacting with another pupil.

Whatever decision is taken with regard to the use of a new name or pronouns, schools must still include the legal name and sex of the pupil in the admissions register, as required by the Education (Pupil Registration) Regulations (England) 2006.

6.4 Single-Sex Spaces

Schools must always protect single-sex spaces with regard to toilets, showers and changing rooms, as set out below. Responding to a request to support any degree of social transition must not include allowing access to these spaces. As a default, all children should use the toilets, showers and changing facilities designated for their biological sex unless it will cause distress for them to do so. In these instances, schools and colleges should seek to find alternative arrangements, while continuing to ensure spaces are single-sex.

The School Premises (England) Regulations 2012 and the Education (Independent School Standards) Regulations 2014 impose statutory requirements for both maintained and independent schools to provide sex-separated toilets for pupils aged eight or over (apart from individual toilets in fully enclosed rooms), and suitable changing accommodation and showers for pupils who are aged 11 years or over at the start of the school year.

6.41 Toilets

Schools are required to comply with minimum standards, including that separate toilets for boys and girls aged 8 years and over are to be provided. While colleges are not subject to the same legal requirements, they should take the same approach given the same safeguarding considerations apply. Boys must not be allowed to go into the girls' toilets (and vice versa) in order to protect all children, particularly girls.

If a child does not want to use the toilet designated for their biological sex, and the school or college has considered all the relevant factors outlined above, they may wish to consider whether they can provide or offer the use of an alternative toilet facility. This should be secured from the inside and for use by one child at a time, including for hand washing. These alternative arrangements should not compromise the safety, comfort, privacy or dignity of the child, or of other pupils.

6.42 Changing Rooms and Showers

Schools have a statutory duty to have suitable washing and changing facilities for pupils aged 11 years and over.³ Schools must not allow a child, aged 11 years or older, to change or wash in front of a child of the opposite sex, nor should they be subject to a child of the opposite sex changing or washing in front of them.

If a child does not want to use the changing rooms and showers designated for their biological sex, and the school or college has considered all the relevant factors outlined

³ At the beginning of the school year.

above, they may wish to consider whether they can provide or offer the use of an alternative changing or washing facility, while continuing to ensure spaces are single-sex. This could mean a facility intended for use by one child at a time that can be secured from the inside. This alternative facility would not be suitable if access to it were through a changing room being used by the other sex. Schools and colleges could consider allowing access to facilities at an alternative time.

6.43 Boarding and residential accommodation

In allocating sleeping arrangements such as dormitories, tents or shared rooms for school trips, each child's sex is relevant. Schools and colleges must meet their safeguarding obligations set out in Keeping Children Safe in Education (KCSIE).

No child should be allowed to share a room with a child of the opposite sex. If a child questioning their gender does not wish to share a room with another child of the same sex, where possible, and only after the school has considered relevant factors outlined above, alternative arrangements should be sought. These alternative arrangements should not compromise the safety, comfort, privacy or dignity of the child, or of other pupils, for instance finding a suitable separate room for the pupil.

Schools and colleges should also have regard to the *National Minimum Standards for boarding schools*, the *National Minimum Standards for residential special schools* and the *Further Education residential accommodation: national minimum standards*, as appropriate.

6.5 Uniform

Schools determine their own uniform rules and should enforce them fairly and equally.

Schools may have different uniform requirements for girls and boys. Some specify which uniform items are for girls and which are for boys, and similarly some schools have hairstyle rules which differ by sex. A child who is gender questioning should, in general, be held to the same uniform standards as other children of their sex at their school and schools may set clear rules to this effect.

Many schools have a unisex uniform that can be worn by both sexes or offer significant flexibility, so allowing a child to change their uniform may be relatively easily accommodated. Schools considering such a request should refer to the Department for Education's uniform guidance. Where flexibility does not exist, while schools and colleges may look at how the child could be accommodated, schools would not be expected to develop new uniform policies as a result.

Decisions on uniform should only be made following a proper consultation with the child's parents, having considered the relevant factors as set out above. When making a decision, schools should consider whether this applies to all elements of the uniform. For example, schools may agree changes or exceptions to the standard school uniform for most uniform items, but not for swimwear.

Schools will also want to ensure that all relevant staff are aware of any variations in uniform requirements agreed for a pupil, so that they are consistently applied, and that changes are communicated to others where necessary in a respectful way. A child who wishes to adjust their uniform may simply not wish to conform with expectations related to their sex. It should not be assumed that such a child is now on a path towards any transition.

6.6 Physical Education and Sport

Schools and colleges should provide equal sporting opportunities for girls and boys. For most children above a certain age, this will usually require offering female-only sporting activities and competition. Schools and colleges should aim to ensure all children participate in sport safely and should encourage maximum participation. In particular, physical activity participation by girls drops in the teenage years – and it is important that schools and colleges are mindful of any actions that might exacerbate this further.

In general, for early primary age children, a more relaxed approach can be taken to mixed-sex participation in sports. As children get older, the size, speed and strength of boys and girls begins to diverge significantly. Schools and colleges that do not provide separate sports for girls are unlikely to be offering them equal opportunities to boys, and for some sports they will be putting girls at undue risk of injury if they have to play on mixed teams.

For all sports where physical differences between the sexes threatens the safety of children,⁴ schools and colleges should adopt clear rules which mandate separate-sex participation. There can be no exception to this. Boys constitute more of a risk to girls because they are generally stronger, larger and heavier than girls, especially when they are going through or have been through puberty. It would not be safe for a biological boy to participate in certain sports as part of a teenage girls' team. Where sports are deliberately mixed-sex, such as mixed netball, there should be no cause for concern.

Even for sports where safety is not risked by mixed-sex participation, schools and colleges should ensure that sports are fair. For competitive sports, schools and colleges should be aware that without separate sex participation, it is unlikely that they will be offering equal opportunities to boys and girls.

For non-competitive sport, schools and colleges should continue to prioritise safety.

Where a child requests to participate in PE lessons or sporting competitions that are intended for the opposite biological sex, schools and colleges should therefore consider:

- the age of the child making the request;
- how safe it would be to allow mixed-sex participation;
- how fair it would be to allow mixed-sex participation.

⁴ It may be helpful for schools and colleges to consider guidance issued by each sport's national governing bodies in reaching decisions on how to conduct their sport safely and fairly.

6.7 Single-Sex Schools

A single-sex school is a school that admits, or, for the purposes of the Equality Act, can be taken to admit,⁵ children of one sex.

Single-sex schools can refuse to admit pupils of the other biological sex, regardless of whether the child is questioning their gender. A school cannot, however, refuse to admit a child of the same biological sex on the basis that they are questioning their gender.

The Equality Act also does not prevent single-sex schools from admitting pupils of the opposite biological sex if their admission is exceptional, or their numbers are comparatively small and limited to particular classes or courses. While this decision should be regardless of whether the child is questioning their gender, if they are, the process outlined in this guidance should still apply to that child. This provision does not mean a school has to admit pupils of the other biological sex; nor does such an admission mean it cannot reject other children of that biological sex.

If those admissions are exceptional or are comparatively small and limited to particular classes or courses, a school will retain their single sex status within the Act and so will still benefit from the specific exemption from sex discrimination for single sex schools under Schedule 11. For example, a boys' school which lets girls attend for a particular GCSE course, which is not offered by a school that admits girls, is still regarded as a single-sex school. The factors, which could underpin whether the admission of a child of the opposite biological sex could be considered exceptional, will be a matter of fact and degree and will vary depending on the circumstances of the case.

⁵ Paragraph 1 of Schedule 11 to the Equality Act provides that a school shall be taken to admit pupils of one sex only where the admission of pupils of the opposite sex is exceptional or their numbers are comparatively small, and their admission is confined to particular courses or classes.

7. Annex: Legal Considerations

This guidance covers areas that remain untested in the courts. Whilst it is not possible for the guidance to state a definitive legal position on all areas, the guidance seeks to provide clear advice to schools and colleges to help inform their decisions. In doing so, it identifies the factors that schools and colleges should consider when making decisions.

The statutory guidance [Keeping children safe in education](#) (KCSIE) sets out the legal duties that must be followed to safeguard and promote the welfare of all children under the age of 18 in schools and colleges.⁶

Under the [Human Rights Act 1998](#) (HRA) it is unlawful for schools and colleges that are public authorities (e.g. publicly funded schools, colleges in the further education sector) to act in a way that is incompatible with Convention rights. Further information (including on absolute and qualified rights) can be found at [The Human Rights Act | Equality and Human Rights Commission \(equalityhumanrights.com\)](#).

The [Equality Act 2010](#) applies to all local authority maintained and independent schools, including academies, maintained and non-maintained special schools, and institutions within the further education sector.

An equality impact assessment can assist in compliance with the Equality Act and more specifically the Public Sector Equality Duty (PSED) which is a legal duty under section 149 of the Equality Act. Compliance with the PSED is a legal requirement for state-funded schools, and colleges within the further education sector. PSED places a general duty on these schools and colleges to have, in the exercise of their functions, due regard to the need to eliminate unlawful discrimination, harassment and victimisation (and any other conduct prohibited under the Equality Act). This duty does not apply to independent schools that are not academies.

More information about direct and indirect discrimination under the Equality Act can be found on the [Equality and Human Rights Commission's website](#).

⁶ These duties also apply to high-needs learners up to the age of 25. See [KCSIE](#) for further details.



Department
for Education

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