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Our ref: Supporting Transgender Pupils in Schools
7 March 2025

Dear Directors,

Thank you for your letter of 24 February 2025 about the provision of toilets in schools. I note that you have written to me with reference to a case before the Employment Tribunal. It would not be appropriate for the Scottish Government to comment on, or speculate about the outcome of, ongoing legal proceedings. As always, the Scottish Government will adhere to the rule of law and respect the independence of the judiciary.

The School Premises (General Requirements and Standards) (Scotland) Regulations 1967 (“the 1967 Regulations”) prescribe minimum standards that education authorities and the managers of grant-aided schools must meet in relation to school buildings under their management. It is this Government’s intention to refresh and modernise the regulations to ensure that they meet the needs of all pupils and schools in Scotland, and a consultation will take place this year.

Your letter indicates that you believe that the policy position set out in the Scottish Government guidance on Supporting Transgender Pupils in Schools in relation to toilets is inconsistent with the 1967 Regulations. The guidance makes clear that the law indicates that provision must be made for both girls and boys, which is entirely consistent with the requirements of the 1967 Regulations.

As you will be aware, the Supporting Transgender Pupils in Schools Guidance is also in alignment with the requirements of the Equality Act 2010 (“the 2010 Act”) and therefore, accurately, recognises the protected characteristic of gender reassignment alongside the other protected characteristics under the 2010 Act, including sex.

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The Equality and Human Rights Commission's ("EHRC") [Technical guidance for schools in Scotland | EHRC](#) explains that the protected characteristic of Gender Reassignment does apply in school. The Supporting Transgender Pupils in Schools Guidance provides non-statutory guidance on the legal, policy and practical considerations that schools and school staff may be required to make if one of their pupils should make the personal decision to seek to change their gender identity whilst they attend school, and informs the school of this, the guidance confirms that the school should engage with the young person and their family in their considerations. It notes that doing so can be challenging. But not doing so may be inconsistent with the 2010 Act.


Your letter further indicates that as a result of the advice in the Supporting Transgender Pupils in Schools Guidance "many children, particularly girls, feel too uncomfortable or embarrassed to use toilets shared with the opposite sex and are not drinking, going elsewhere during lunch break, or holding on until the end of the school day, all of which can cause health issues. Bullying is common and serious incidents reported include cubicle doors kicked in, camera use and sexual harassment of girls." The Supporting Transgender Pupils in Schools Guidance includes on page 27 a section on evidence in relation to toilets and changing rooms which sets out these concerns, to aid schools and local authorities in their thinking about the provision of toilets and changing rooms. This advice reflects the needs and experiences of girls, boys, and trans pupils to ensure that appropriate consideration is given to all young people who are affected. The guidance also highlights the relevant sources of evidence.

I note that you were disappointed by the response to your letter of 27 June 2024. Your correspondence sought confirmation of whether or not the Scottish Government would withdraw the Supporting Transgender Pupils in Schools Guidance, and the response to your letter adequately answered this point. As has previously been confirmed, the Scottish Government will not withdraw the Supporting Transgender Pupils in Schools Guidance. The Scottish Government is committed to ensuring that this guidance remains up to date and fit for purpose, and that includes considering from time to time whether any updates are required as a result of relevant legal or policy developments.

I note that you have indicated that many parents have raised complaints and that there may be challenges progressing towards the courts. The feedback we have received from education authorities and schools about the guidance has been that it is helpful in supporting them to make the decisions that they require to make in order to protect the rights and interests of all their pupils, including girls, boys, and trans pupils. As I have indicated above, the guidance is consistent with the Equality Act 2010 which protects the interests and rights of all those with protected characteristics in schools and in society more widely.

I trust that this information is helpful to you.

Yours sincerely



JENNY GILRUTH

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