



EQUALITY NETWORK
SCOTTISH TRANSGENDER ALLIANCE



Petition PE1411

The **Scottish Transgender Alliance** is the only national transgender specific equality policy project currently funded in Scotland. It is based within the Scottish Charity **Equality Network**. The membership of Scottish Transgender Alliance is drawn from transgender individuals, community groups and allies engaged in developing work or delivering services for the benefit of transgender people throughout Scotland. We welcome the opportunity to respond to the above petition.

The Scottish Transgender Alliance supports the aim of the petition to reform uniform policy in all Scottish Local Authority Schools in order to ensure all pupils are able to wear uniforms which are not gender specific, physically restrictive or prohibitively costly. We agree that pupils should not be required to wear gender specific uniforms, which conflict with principles of equality and human rights, for the following reasons, discussed in further detail below:

1. Gender specific uniforms can cause a great deal of distress to transgender pupils and are discriminatory;
2. Non-compliance with inflexible gender specific uniform codes can result in transgender pupils facing exclusion;
3. Restrictive and cumbersome clothes such as shirts and blazers can be particularly uncomfortable for transgender pupils;
4. Clear national guidelines would help ensure continuity between Local Authorities and that pupils are treated consistently throughout their education.

1. Gender specific uniforms cause distress and are discriminatory

Many individual transgender people have advised us that one of their most traumatic childhood experiences was being forced to wear gender specific clothes not appropriate to their self-defined gender identity. The clothing a child wears is one of the most obvious outward indicators of their gender, hence why it is so important for it to correspond to the gender they self-identify as. This is evidenced by the numerous examples provided by parents, of their transgender children taking advantage of every opportunity to dress as the opposite gender to that which they were assigned at birth¹.

¹ See for example that provided by the Gender Identity Research and Education Society, <http://www.gires.org.uk/treatment-case1.php>

Having to appear at school in clothes not appropriate to their gender identity can substantially increase the distress that transgender children and young people feel, and inhibit their ability to learn and engage with their peers. The distress experienced by transgender children and young people if they are prevented from expressing their gender identity can be very severe and require the involvement of child and adolescent mental health services and/or educational psychology services due to resulting school truancy, social anxiety, depression and/or self-harm. The education provisions of the Equality Act 2010, as well as prohibiting specific conduct, state that pupils should not be subject to “any other detriment” because of a protected characteristic. We suggest that the impact gendered uniforms have on transgender children is such that it constitutes detriment and is therefore contrary to the Equality Act.

Even if transgender pupils are permitted to wear the gender specific uniform worn by those of the opposite gender to that which they were assigned at birth they may still experience difficulties with bullying from other pupils due to switching their gender of uniform. Also, while some transgender pupils are completely certain and consistent about their gender identity, some other transgender pupils may be more unclear or androgynous in terms of their gender identity and therefore not comfortable to switch from one gender presentation to the opposite one. Gender neutral uniform options would take away the need for pupils to go through the process of changing from wearing the male uniform to the female and vice-versa. Such an approach was highlighted in The Equality and Human Rights Commission’s Guidance for Public Authorities in Meeting Equality Duties and Human Rights Obligations² as an example of best practice for supporting a transgender primary school pupil. Taking the step to relax uniform policies to enable children to wear gender neutral clothing is described in the guide as a human rights based approach.

There may also be some pupils who, although they do not identify as transgender, do not wish to adhere to traditional gender stereotypes. Reinforcing stereotypes such as that girls should not wear trousers may amount to less favourable treatment on the grounds of sex³. Furthermore, given that Scottish schools are subject to the general Public Sector Equality Duty to tackle prejudice, under the Equality Act s.149, they should not have systems in place which fundamentally differentiate on the basis of gender.

2. Non-compliance with uniform codes

Transgender children and young people often experience such distress about the gender they were assigned at birth conflicting with their gender identity that they refuse

2 “Provision of goods, facilities and services to trans people,
http://www.equalityhumanrights.com/uploaded_files/PSD/psd_trans_guidance.pdf at page 41

3 See Equality and Human Rights Commission guidance
<http://www.equalityhumanrights.com/advice-and-guidance/before-the-equality-act/guidance-for-education-providers-pre-october-2010/fair-treatment-when-in-education/school-uniform/> - under the old law but still applicable

to wear certain gender specific clothing. For example, a transgender pupil who was assigned female at birth but who self-identifies as a boy may completely refuse to wear skirts which would breach a uniform code stating that female pupils should wear a skirt. In applying a blanket exclusion policy for persistent failure to adhere to uniform codes schools may be indirectly discriminating against pupils who are unable to conform due to a protected characteristic⁴ in terms of the Equality Act 2010 s.85(2)(e). This difficulty can be overcome by the introduction of uniforms which are appropriate to all students. Although there are examples of good practice where schools have permitted transgender pupils to wear alternative uniforms the changes proposed would dispense with the need for exceptions to be made and ensure that failure to wear gender specific uniforms would never be grounds for disciplinary action.

3. Restrictive uniforms are uncomfortable

The petition highlighted the fact that many school uniforms are restrictive, impractical and uncomfortable. This is particularly so for transgender pupils. Clothes which are fitted, such as shirts and blazers, can emphasise the wearer's body shape and so make transgender pupils feel self-conscious. Looser clothes, such as polo shirts and sweatshirts, are better able to disguise differing physicalities.

4. Clear national guidelines help ensure continuity

As individual schools are currently able to set their own uniform policies transgender pupils' experiences will differ depending upon the school they attend. Many schools lack awareness of transgender equality issues and have never considered the equality impact of their uniform policies on pupils with the protected characteristic of gender reassignment. Pupils may be restricted in their choice of school based upon uniform requirements. Creating clear national guidelines would help provide a consistent approach throughout Scotland and mean that all pupils know exactly how a school's uniform policy will affect them. Currently children may be unaffected by the issue at primary school but worry that they may have to wear a gender specific uniform further on in their education. This new approach would enable children and young people to progress from primary to secondary school without having to deal with changing uniform policies. Clear national guidelines would be the most efficient and effective way to assist schools in avoiding uniform policies which discriminate against transgender pupils.

4 See Equality and Human Rights Commission guidance:
<http://www.equalityhumanrights.com/advice-and-guidance/education-providers-schools-guidance/exclusion-from-school/how-do-i-avoid-discriminating-in-relation-to-exclusions-from-school/>