



Scotland's Commissioner
for Children & Young People

PE1411/D

Ms Alison Wilson
Assistant Clerk to the Public Petitions Committee
Room T 3.40
EDINBURGH
EH99 1SP

January 18th 2012

Dear Ms Wilson

Thank you for providing me with the opportunity to comment on Petition PE1411.

This petition, submitted by Luca Scarabello, calls on the Scottish Parliament to urge the Scottish Government to reform School Uniform Policies; by stopping gender-specific uniforms and changing clothes worn for uniforms to more comfortable, less physically-restrictive, more affordable and practical garments. The petitioner raises some important children's rights issues and I will refer to these in my response.

As Scotland's Commissioner for Children and Young People, my role is to promote and safeguard the rights of children and young people. In so doing, I must have regard to the United Nations Convention on the Rights of the Child (UNCRC) which sets out the fundamental human rights that all children and young people are entitled to. This Convention sets out minimum benchmarks in rights for children rather than "best practice"; countries are encouraged to exceed the standards laid out in the Convention, but not fall short of its basic requirements. The UK ratified the UNCRC in 1991, thus committing itself to bringing all laws, policy and practice into line with the Convention.

My remit covers children up to the age of 18 (or 21 if they have been in the care system).

The key UNCRC rights relevant to this petition are the four basic principles

- Article 2 which ensures that the child is protected against all forms of discrimination;

- Article 3 which calls for the best interests of the child to be a primary consideration in decisions affecting the child;
- Article 6 which promotes the right to life and maximum survival and development; and
- Article 12 which provides the right to express views freely and have opinions listened to in all relevant matters (the views of the child given due weight in accordance with the child's age and maturity).

Other relevant articles include:

- Article 29 which focuses on the aims of education and notes that “the education of the child shall be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential”. This wording is replicated in Section 2(1) of the Standards in Scotland's Schools etc. Act 2000.
- Article 13 which provides for the right to freedom of expression and
- Article 14 which provides for freedom of thought highlighting the need to envisage the child as an active subject of rights.

The legal position on school uniforms

The law says little about school uniforms. Neither schools nor education authorities have powers to compel parents to send their children to school in a uniform. The Report of the Discipline Task Group (DTG) (2001)¹ discusses the concept of creating a 'learning community' and suggests that a feature of schools with a high ethos of achievement is a sustained effort to either maintain or introduce a dress code to the school.

This report highlights some benefits of a dress code such as reducing difference (which can in turn reduce some of the causes of isolation and bullying); increasing the self esteem of some pupils; improving the security of the school due to easy identification and instilling an increased sense of belonging and commitment to the school.

Because of the above, the DTG took the view that schools should give serious consideration to the continuation or formation of a dress code policy. They noted that sustaining this in the long term can be difficult as it requires continued high-profile emphasis from the school community of the importance of adhering to the agreed dress code policy, which pupils should have had a hand in forming.

¹ <http://www.scotland.gov.uk/Resource/Doc/158381/0042908.pdf>

The latter point is significant as the petitioner notes that whilst schools are *encouraged* to consult pupils, parents and teachers regarding uniform codes some may not. The point is also made by the petitioner that even if pupils/parents were consulted, some consultees would undoubtedly be in favour of gender-prescribed uniforms, which, although democratic, would be unfair to gender-variant pupils. It is my view that these are quite distinct issues. The need for better consultation within schools and education authorities with a commitment from senior management to take issues raised by pupils seriously is one thing, unfair discrimination against groups with protected characteristics quite another.

Equality Act 2010

The Equality Act 2010 places duties on public bodies to prevent indirect and direct discrimination against those with protected characteristics. This covers age, disability, race, religion or belief, gender-reassignment, sex and sexual orientation, and also applies to pregnancy and maternity. School uniforms and or dress codes should not discriminate – directly or indirectly against any of these protected groups. Schools should be reviewing their uniform / dress code policies to ensure that they do not have the effect of unlawfully discriminating against pupils with a protected characteristic. The Equality and Human Rights Commission suggests making exceptions to standard policies for certain pupils whilst ensuring that different rules for different categories of pupils are not discriminatory².

I would agree that gender specific uniforms or dress codes can cause serious distress in gender-variant pupils and would emphasise the need for effective leadership, guidance and training within schools and education authorities to ensure that the duties contained within the Equality Act are clearly understood and complied with. I am also of the view that for some disabled children, particularly on the autistic spectrum, the enforcement of a strict dress code would be both inappropriate and unlawful.

Other issues

Other issues which also merit discussion and perhaps further research include:

- I believe that the introduction of a uniform can act as a ‘leveller’ between poor and rich pupils, thus reducing stigma and possibly bullying. It is arguable that a basic uniform is cheaper in the long run because parents

² <http://www.equalityhumanrights.com/advice-and-guidance/education-providers-schools-guidance/providing-education-and-access-to-any-benefit-service-or-facility/how-do-i-avoid-discriminating-in-the-provision-of-education-and-benefits-services-and-facilities/>

would not be catering to their children's desire to wear something different every day. There are grants to alleviate costs for poorer families, although we need greater consistency across the country on the levels and availability of these. That said, a uniform is unlikely to completely mask the fact that a child is from a poorer home.

- I agree that effective learning and teaching is much easier to achieve where a positive ethos and good discipline prevail, however there are many examples where this is achieved without a school uniform. The link to school uniforms and improved discipline is often made and these arguments are currently being voiced in England and Wales where blazers, ties and fully buttoned shirts are being reintroduced in many schools in the name of strong discipline and maintaining high standards. I am unaware of any robust evidence that the wearing of a school uniform is necessarily related achievement.
- I agree with the petitioner that considerable time can be spent in enforcing compliance which has the potential to lead to resentment on the part of the pupil. This can distract from time which could be better spent in developing supportive learning environments. There will of course be times when there is a need for a dress code, for instance, prohibiting the wearing of long, heavy ear-rings during physical exercise to protect young people from possible harm, or the need to wear a particular uniform and head gear during cookery classes because of hygiene issues in the kitchen.

Alternatives to a strict uniform/ dress code

This is clearly an issue which divides people and there are strong views on both sides. The issue for me should be about children and young people attending school appropriately and respectfully dressed in a way that does not interfere with their (or others' learning) and in a way which is non discriminatory. The DGT stated that:

“The experiences children and young people gain throughout their education must provide them with the life skills required to equip them to participate safely, purposefully and positively in an increasingly complex world. Schools have a key role to play in nurturing young people’s core skills to support them through childhood and in later life³.”

³ *The Discipline Task Group (2001)*

I agree with this statement and I believe we should be celebrating difference, rejecting discriminatory practice and allowing our children and young people to express themselves freely in a way that is both inclusive and respectful and helps them to develop a strong sense of who they are. I also agree that decision making on school uniform / dress code is appropriately placed at the local authority and school level. I would suggest that a balance be struck between school uniform / dress codes on the one hand and the need for a relaxation of any requirements where this is appropriate, on the other.

The suggestion of the petitioner to replace traditional uniforms with more comfortable and cheaper alternatives is one I that is worth discussing, but I would prefer to call for flexibility rather than a blanket ban on school uniforms. This would accommodate difference and reduce stigma. It would still be providing an element of uniformity as the petitioner notes and thus provide a form of dress code whilst steering away from a 'fashion show' referred to in the submission.

The Committee may wish to explore this issue in more detail with young people.

I would be happy to expand on any of my comments

Yours sincerely,

Tam Baillie
Scotland's Commissioner for Children and Young People