

Brighton & Hove City Council

Cabinet

Agenda Item 140

Subject: Trans Inclusion Schools Toolkit Version 5

Date of meeting: Thursday, 23 January 2025

Report of: Cabinet Member for Children, Families, Youth Services and for Ending Violence against Women and Girls

Contact Officer: Name: Corporate Director for Families, Children and Wellbeing

Email: deb.austin@brighton-hove.gov.uk

Ward(s) affected: (All Wards);

Key Decision: Yes

Reason(s) Key: Is significant in terms of its effects on communities living or working in an area comprising two or more electoral divisions (wards).

For general release

1. Purpose of the report and policy context

- 1.1 The Trans Inclusion Schools Toolkit supports schools and education settings to develop policies and practice that promotes the welfare of some of the most vulnerable children and young people in the city.
- 1.2 The toolkit aligns with the Council Plan 2023-27. In particular, Outcome 3 A healthy city where people thrive – Keep children and young people safe and ensure no child or family is left behind

2. Recommendations

- 2.1 Cabinet agrees to publish the Trans Inclusion Schools Toolkit Version 5 (appendix 1) and recommends all education settings in Brighton & Hove use its guidance to inform policy and practice.

3. Context and background information

- 3.1 Trans young people have consistently been identified both locally and nationally as highly vulnerable in terms of health and education outcomes. Brighton & Hove City Council have recognised this, and since 2013, has published guidance for schools and education settings to support trans and gender questioning children and young people to access education services successfully.
- 3.2 This guidance and advice has been recognised by many other councils, the NHS, schools and education settings both within and outside the city as

providing crucial guidance and support for school leaders, teachers and staff working in education settings.

3.3 Since its inception, the council has recognised that given the changing nature of this area of policy, it needs to remain subject to review. This is the fifth version of the toolkit to be published.

3.4 There have been several publications over the past 12 months which address the issue of gender identity and gender questioning/trans children and young people. These include:

- Consultation on draft non statutory Guidance for Schools and Colleges: Gender Questioning Children (March 2024) – outcome awaited
- the Independent Review of Gender Identity Services for Children and Young People (The Cass Review April 2024)
- Draft statutory guidance for Relationships, Sex and Health Education (May 2024) – outcome awaited
- Updated statutory guidance on Keeping Children Safe in Education (Sept 2024) which references the awaited Gender Questioning Children consultation

3.5 The toolkit has been reviewed with these policy statements in mind to provide schools with a useful tool they could use to help them support trans and non-binary students.

Consultation response

3.6 An extensive online consultation process was undertaken as part of the review of the Toolkit. This included engagement sessions involving local schools to gain the views of young people; a Your Voice consultation exercise which captured 448 responses; written responses and focus group sessions.

3.7 A summary of the consultation response is detailed in appendix 2. In addition, all full responses to the online consultation are provided to the Cabinet as background papers.

3.8 Analysis of the consultation responses indicates a range of opinions, with a majority either in support of the toolkit or feeling it should be going further to promote and safeguard the rights of trans and non-binary children.

3.9 216 parents and carers engaged in the consultation, 158 of which have a child attending a school in Brighton & Hove. 51% of Brighton & Hove parents agreed with the principles of the toolkit, and 3% stated they did not think it supported trans children enough. Of all parents and carers who responded to the survey, 48% agreed with the principles and 2% stated they did not think it supported trans children enough. This pattern was broadly repeated across the different elements of the toolkit.

- 3.10 Seventy responses were received from young people. Overall, young people were supportive of the principles of the toolkit, with the main contention being the involvement of parents and carers. Feedback included views that young people should have the right to explore their identity without the involvement of their parents, and that the toolkit did not go far enough in its support of trans children.
- 3.11 56% of teachers were in support of the toolkit's principles. A significant number of teachers felt the toolkit was not bold enough in its aims or advice (15%).
- 3.12 Respondents from outside the city were more likely to be negative about the toolkit with 44% arguing against the new version, with 20% in favour.

Changes in the new version

- 3.13 The new draft of the toolkit has involved extensive updating. It has been refreshed to identify the different issues that schools and education settings can face, citing relevant material to help inform schools of the factors they need to consider when adopting a fact specific nuanced approach.
- 3.14 The toolkit remains focused on supporting schools on how to support trans and non-binary children and young people. The toolkit emphasises that schools are not, and should not, be advising or giving advice about medical transition.
- 3.15 All references to statutory and legal guidance have been updated in the revised toolkit.
- 3.16 It emphasises that the approach of the school or setting to each student needs to be considered on a case-by-case basis, in partnership with parents or carers(except in exceptional circumstances when it would be unsafe to do so) , placing the wellbeing of the child at the centre of decision making.
- 3.17 Schools may well have to navigate situations with children and young people who are exploring social transitioning, as defined in the Toolkit. How they respond to these situations can have a significant impact on the young person's health and wellbeing. Whilst the Cass Review is primarily directed at NHS services, it does have some relevance for schools, in terms of the social transitioning element of the advice and is referenced in the Toolkit. The Toolkit does not prescribe what decisions should be made in each case but provides a framework of issues to consider.
- 3.18 Social transitioning & sharing of information with parents remains the most contentious area (and the most nuanced and complex for schools to get right). The latest version of the toolkit provides advice and support in this area, and signposts the importance of seeking further professional support (which could be from council teams) where appropriate.
- 3.19 The toolkit remains guidance – it is for schools to apply as they see fit in accordance with their ethos and values, applying their knowledge of their

students and families. It is hoped that schools and education establishments will continue to find the toolkit useful, particularly in the absence of national guidance.

4. Analysis and consideration of alternative options

Removal of the toolkit

- 4.1 This option would remove the support and advice that currently exists for schools within the city in responding to trans and non-binary children.. Schools could look elsewhere at other toolkits, but these might be similar to the Brighton & Hove toolkit (many have been adapted from it) but will not necessarily have been comprehensively refreshed considering recent government guidance. Schools could be forced to develop their own policies and practices, which could take a wide variety of forms and lead to significant confusion and a lack of appropriate support for children and young people. The lack of national guidance may lead to some schools ignoring or indirectly discriminating against trans children and young people.

Wait for national guidance to be agreed.

- 4.2 It is unclear when national guidance for schools around supporting trans children and young people will, if ever, be issued. The consultation on the non-statutory draft guidance issued under the previous government closed in March 2024, and there has been no indication of timescales when revised guidance will be issued.

Recommend alternative guidance

- 4.3 Whilst other guidance and toolkits do exist, these will not necessarily have undergone the same level of professional scrutiny as our local guidance, thereby potentially opening schools, settings or the council to risk, following poor practice.

5. Community engagement and consultation

- 5.1 Public consultation was carried out through Your Voice. This was open for feedback from 23rd July 2024 to the 11th October 2024.
- 5.2 448 responses were received through the platform and several separate written responses.
- 5.3 Consultation engagement events were held for school staff, governors and young people. This provided a forum for questions and answers around the toolkit's aims and proposals.
- 5.4 Consultation events were also held for parents/carers of trans children and young people.
- 5.5 All responses to the toolkit have been provided as a background document.

6. Financial implications

- 6.1 There are no clear direct financial implications linked to the recommendation to publish the toolkit.

Name of finance officer consulted: Steve Williams Date consulted
09/01/2025

7. Legal implications

- 7.1 The content of the revised Brighton and Hove toolkit has been the subject of extensive input and review by the legal department. The final version of the toolkit now appended has also been the subject of independent legal advice and sanction by King's Counsel.

- 7.2 A child can have the "protected characteristic" of gender reassignment, Section 7 of the Equality Act 2010. Section 7(1) of the Equality Act 2010 states:

"A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex."

- 7.3 Where children are recognised as having the protected characteristic of gender reassignment, they must not be the subject of treatment, which is discriminatory, arising from their status as a trans child or young person.
- 7.4 As indicated in the body of the Toolkit, the Toolkit operates as guidance available to be considered by support staff and governors in Brighton and Hove schools to make informed decisions about how to promote the welfare of students who are gender exploring or meet the definition of being transgender, while at the same time taking account of how any decisions they make in that regard may impact on other pupils.
- 7.5 The Toolkit is not intended to be prescriptive or exhaustive. It does not restrict the discretion of Headteachers and Governing Bodies to make their own decisions.
- 7.6 The draft *Gender Questioning Children: Non-statutory guidance for schools and colleges in England*, published under the previous government, is not yet adopted, and in consultation responses was widely considered to be legally flawed in relation to some elements, notably as identified in the consultation response of the Equality and Human Rights Commission.
- 7.7 The Toolkit does not supersede any statute or issued statutory guidance in relation to the obligations of schools to their students and their families.
- 7.6 Schools are encouraged to always seek further professional advice if needed, which could be from Brighton & Hove City Council.

Name of lawyer consulted: Natasha Watson, Head of Law Date consulted: 06/01/2025

8. Equalities implications

- 8.1 There has been regular communication between the toolkit team and the EDI team throughout this process. The EIA in appendix 3 has been completed based on the review and engagement activities.

9. Sustainability implications

- 9.1 Not applicable.

10. Health and Wellbeing Implications:

- 10.1 Trans CYP remain one of the most vulnerable groups in the city (as seen in the SAWSS) Anecdotal and engagement activity shows that the toolkit is helping the health and wellbeing of CYP in the city.

Other Implications

11. Procurement implications

- 11.1 Not applicable.

12. Crime & disorder implications:

- 12.1 Not applicable.

13. Conclusion

- 13.1 It is recommended that the Trans Inclusion Schools Toolkit Version 5 is approved for publication and for sharing with schools and colleges in the city. This is to support trans and gender questioning children and young people to receive the support they need to be able to fully access educational services and achieve their full potentials. Without access to guidance, a vulnerable group of pupils are at risk of being left without effective support. Likewise, schools and settings are left without clear guidance leaving them to navigate a complex area of policy without support.

Supporting Documentation

1. Appendices

1. The toolkit – new revised version
2. Consultation summary
3. Equality Impact Assessment

2. Background documents

1. Consultation responses