

## Chapter 6 – Protect and Teach Recommendations: A Practical Guide for Consultation Respondents

Protect and Teach CIC recommends that the final Technical Guidance incorporate the following overarching changes:

- State unambiguously, and in a prominent location, that single-sex facilities, uniform policies, admissions criteria, boarding accommodation and sports categories based on biological sex are lawful, justified and consistent with both the Equality Act 2010 and Keeping Children Safe in Education (2026).<sup>59</sup>
- Remove or rewrite all examples that frame ordinary sex-based rules as “unlikely to be justified” or as presumptive indirect discrimination on the ground of gender reassignment.
- Confirm that gender-reassignment protection does not require opposite-sex facilities, uniform exceptions, exceptional admissions to single-sex schools, automatic alternative accommodation, or special mentoring programmes based on gender identity.
- Keep the protected characteristics of sexual orientation and gender reassignment clearly separate in all positive-action, bullying and mentoring examples.
- Provide practical decision-making frameworks (or short flowcharts) that begin with the safety, privacy and dignity of all pupils and that explicitly incorporate the careful, parent-involved approach to social-transition requests required by KCSIE 2026.<sup>60</sup>
- Emphasise that the Public Sector Equality Duty requires genuine consideration of the protected characteristic of sex and does not permit gender-reassignment considerations automatically to override single-sex provision.<sup>61</sup>
- Include explicit advice on the accurate recording of biological sex and on the continued applicability of normal safeguarding and disciplinary processes.

These changes would give schools greater legal certainty, reduce the risk of conflicting claims, and ensure that the guidance supports rather than complicates compliance with the full statutory framework.

To assist other respondents, the remainder of this chapter provides **ready-to-adapt model answers** that mirror the key free-text questions in the EHRC consultation survey. Each model answer is drawn from Protect and Teach’s formal response and can be copied, shortened or expanded as needed (all free-text answers must stay under 2,000 characters).

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<sup>59</sup> Equality Act 2010; For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16; Department for Education, Keeping Children Safe in Education (2026).

<sup>60</sup> Department for Education, Keeping Children Safe in Education (2026).

<sup>61</sup> Equality Act 2010, s 149.

<sup>62</sup> School Premises (England) Regulations 2012 (SI 2012/1943).

<sup>63</sup> For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16.

## Consultation survey

The EHRC consultation survey begins with a series of straightforward screening and background questions designed to confirm eligibility and gather basic information about respondents. These opening sections are largely administrative and do not require detailed substantive answers.

After confirming that the respondent is completing the correct national survey; England in this case, wishes to take part, is aged 16 or over, and has read the draft guidance, the survey moves into a short set of questions about the nature of the response.

Respondents are asked whether they are answering as an individual, a legal or education professional, or on behalf of an organisation. Organisational respondents may then indicate the type of organisation and (optionally) its name.

A further question invites respondents to note whether their work focuses on any particular protected characteristics. There is also a question about whether the response includes views from children (only those aged 16 and over may submit a response, though views of younger children may be reflected).

Finally, respondents are asked how they expect to use the final guidance (for example, to understand school responsibilities, to advise others, for research, campaigning, or challenging decisions). These initial questions are followed by the substantive sections that form the core of the consultation. The model answers provided later in this chapter focus on those substantive free-text questions, where the most significant issues of legal accuracy and practical clarity arise.

The link to complete the consultation is: **[consultation survey for the technical guidance for schools in England](#)**. The survey is open from 10:00am on 10 June and will close at 11:59pm on 30 September.

You then choose the country: (England, Scotland or Wales). The following model answers relate to England, but can be adapted for your preferred nation:

### Technical guidance for schools consultation 2026

This technical guidance explains schools' legal obligations not to discriminate against, harass or victimise pupils, as set out in chapter 1 of Part 6 of the Equality Act 2010 (the Act).

This guidance is not a statutory code issued under section 14 of the Equality Act 2006, but it may be used as evidence in legal proceedings.

We have updated the guidance to:

- include updates and developments in the law relating to types of discrimination and protected characteristic groups
- explain how the Act applies in different education settings and institutions like academies, special schools and school-based clubs
- clarify the interaction between the Act and other related laws
- explain how the Act applies in specific circumstances, for example where restraint, isolation and seclusion is used

We have developed guidance for each nation to reflect the differences in law across England, Scotland and Wales.

We are running this consultation to gather feedback on how clearly the guidance explains schools' obligations under the equality act and whether we have accurately reflected the law.

You can access the guidance, consultation surveys and instructions on how to take part by selecting the links on this page.

### Draft technical guidance for consultation

Schools in England technical guidance consultation >

10 June 2026

Schools in Wales technical guidance consultation >

10 June 2026

Schools in Scotland technical guidance consultation >

10 June 2026

Q10 – Missing information on protected characteristics

Technical guidance for schools in England consultation

The guidance covers the experiences and needs of pupils with different protected characteristics. Tell us whether there is any information missing in relation to the following protected characteristics:

|                         | Yes, there is information missing | No, there is no information missing | I do not know         |
|-------------------------|-----------------------------------|-------------------------------------|-----------------------|
| disability              | <input type="radio"/>             | <input checked="" type="radio"/>    | <input type="radio"/> |
| gender reassignment     | <input checked="" type="radio"/>  | <input type="radio"/>               | <input type="radio"/> |
| pregnancy and maternity | <input type="radio"/>             | <input checked="" type="radio"/>    | <input type="radio"/> |
| race                    | <input type="radio"/>             | <input type="radio"/>               | <input type="radio"/> |
| religion or belief      | <input type="radio"/>             | <input checked="" type="radio"/>    | <input type="radio"/> |
| sex                     | <input checked="" type="radio"/>  | <input type="radio"/>               | <input type="radio"/> |
| sexual orientation      | <input type="radio"/>             | <input checked="" type="radio"/>    | <input type="radio"/> |

Q10 – Recommended answer

Information is missing or incorrectly framed for sex and gender reassignment. The guidance correctly states that sex means biological sex at birth and that single-sex facilities and sleeping accommodation are required. However, several examples and sections create conflict and pressure schools away from clear sex-based rules and safeguarding:

- Changing facilities (Chapter 5): Requiring a pupil to use the facilities of their biological sex is described as “unlikely to be justified” and likely unlawful indirect gender-reassignment discrimination. This is incomplete and unbalanced. It fails to explain that providing and enforcing single-sex facilities by biological sex is a legitimate aim that protects the privacy, dignity and safety of all pupils (especially girls). Treating use of the correct-sex facility as potential discrimination creates a conflict with the School Premises Regulations, safeguarding duties and the protected characteristic of sex. Suggesting staff facilities as a solution is not appropriate for children and does not address stigma or practical safeguarding issues.<sup>62</sup>

59 Equality Act 2010; For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16; Department for Education, Keeping Children Safe in Education (2026).  
60 Department for Education, Keeping Children Safe in Education (2026).  
61 Equality Act 2010, s 149.  
62 School Premises (England) Regulations 2012 (SI 2012/1943).  
63 For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16.

## Q10 – Recommended answer continued...

- Uniform (Chapter 5): A sex-based skirts/trousers policy is framed as potentially indirect discrimination against gender reassignment and “unlikely to be justified” without exceptions or a gender-neutral option. This treats sex-based uniform rules as presumptively discriminatory and pushes schools toward gender-neutral policies or case-by-case exceptions that facilitate social transition.
- Single-sex school admissions (Chapter 4): A boys’ school may admit a “trans boy” (biological female) as an exceptional admission under Schedule 11. This treats gender reassignment as a basis for admitting the opposite biological sex into a single-sex school, undermining the purpose of single-sex education even while facilities remain sex-based.
- LGBT positive action example: The guidance presents consulting with an external LGBT charity, treating “homophobic and transphobic bullying” as equivalent, and providing special mentoring/activities for “LGBT” pupils as straightforward good practice. This conflates sexual orientation with gender reassignment, treats disagreement with gender identity as equivalent to homophobia, and normalises external activist involvement and special treatment based on gender identity.
- Boarding and communal accommodation (Chapter 10): While the guidance correctly requires separate-sex sleeping for pupils aged 8+, it states that excluding a trans pupil from accommodation of their own biological sex “should only be considered on a case-by-case basis where this is a proportionate means of achieving a legitimate aim.” Schools must then consider providing additional separate sleeping, toilet and shower facilities. This creates a presumption that special alternative provision is required and treats ordinary sex-based boarding rules as potentially discriminatory.

The guidance should state clearly that:

- Single-sex facilities, uniform, admissions and sleeping accommodation are based on biological sex and are lawful and justified.
- Gender-reassignment protection does not require opposite-sex facilities, uniform, exceptional admissions, special mentoring, or automatic alternative accommodation.
- Sexual orientation and gender reassignment are distinct and should not be conflated.
- Safeguarding and the best interests of all children take priority.

Without this clarity the guidance leaves schools exposed to conflicting claims and weakens protection for the characteristic of sex.

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59 Equality Act 2010; For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16; Department for Education, Keeping Children Safe in Education (2026).

60 Department for Education, Keeping Children Safe in Education (2026).

61 Equality Act 2010, s 149.

62 School Premises (England) Regulations 2012 (SI 2012/1943).

63 For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16.



## Q11 – Clarity of important concepts

This section asks for your feedback on how clear and accurate the guidance is.

***Does the guidance clearly explain the important concepts in the Equality Act 2010, such as protected characteristics, discrimination, harassment, and victimisation?***

### Clarity of the guidance

This section asks for your feedback on how clear and accurate the guidance is.

Does the guidance clearly explain the important concepts in the Equality Act 2010, such as protected characteristics, discrimination, harassment, and victimisation?

☐ Yes

☒ No

☐ I do not know

Tell us how we could improve the way we define important concepts in the guidance. Your response must be fewer than 2000 characters:

### Q11 – Recommended answer

No, the guidance does not clearly or accurately explain the important concepts in relation to the protected characteristics of sex and gender reassignment. While it correctly notes (following the Supreme Court in *For Women Scotland*)<sup>63</sup> that sex means biological sex at birth, the practical examples throughout the guidance undermine this clarity. Key concepts are defined in a way that prioritises gender reassignment over sex and creates confusion for schools:

- Requiring a pupil to use single-sex facilities or uniform matching their biological sex is repeatedly framed as potentially unlawful indirect gender-reassignment discrimination (changing rooms, skirts/trousers policy).
- Declaring an intention to undergo gender reassignment is presented as creating immediate protection from ordinary school decisions (exclusions example).
- “Trans” pupils are treated as eligible for exceptional admission to single-sex schools of the opposite biological sex.
- Sexual orientation (LGB) is routinely conflated with gender reassignment in positive-action and bullying examples, treating “transphobia” as equivalent to homophobia.
- Boarding rules require case-by-case justification before a trans pupil can be excluded from same-sex accommodation, creating a presumption of special alternative provision.

These examples blur the legal distinction between the two protected characteristics and fail to explain that sex-based rules (facilities, uniform, sleeping accommodation, sports) remain lawful and justified.

59 Equality Act 2010; *For Women Scotland Ltd v Scottish Ministers* [2025] UKSC 16; Department for Education, *Keeping Children Safe in Education* (2026).

60 Department for Education, *Keeping Children Safe in Education* (2026).

61 Equality Act 2010, s 149.

62 School Premises (England) Regulations 2012 (SI 2012/1943).

63 *For Women Scotland Ltd v Scottish Ministers* [2025] UKSC 16.

Q11 – Recommended answer continued...

The guidance should:

- Clearly restate that sex is biological and binary.
- Explain that gender-reassignment protection does not override single-sex provisions or require social transition, opposite-sex facilities, or gender-neutral policies.
- Keep sexual orientation and gender reassignment separate.
- Emphasise that safeguarding and the best interests of all children take priority over avoiding theoretical discrimination claims.

Without these corrections the definitions of the core concepts remain unclear and unbalanced.

Q12 – Clarity of schools’ obligations

The guidance explains the obligations that the Equality Act 2010 places on schools. Tell us whether the explanations are clear in relation to the following areas:

|                                                                                           | Yes, the explanation is clear    | No, the explanation is not clear | I do not know         |
|-------------------------------------------------------------------------------------------|----------------------------------|----------------------------------|-----------------------|
| Admissions                                                                                | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/> |
| The provision of education and access to benefits, facilities and services for pupils     | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/> |
| Exclusions from school                                                                    | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/> |
| Making reasonable adjustments for disabled pupils                                         | <input checked="" type="radio"/> | <input type="radio"/>            | <input type="radio"/> |
| The positive action provisions of the Act                                                 | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/> |
| Dispute resolution and enforcement of the Act                                             | <input checked="" type="radio"/> | <input type="radio"/>            | <input type="radio"/> |
| Exceptions that apply generally across the Act and how they apply specifically to schools | <input type="radio"/>            | <input checked="" type="radio"/> | <input type="radio"/> |

59 Equality Act 2010; For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16; Department for Education, Keeping Children Safe in Education (2026).  
60 Department for Education, Keeping Children Safe in Education (2026).  
61 Equality Act 2010, s 149.  
62 School Premises (England) Regulations 2012 (SI 2012/1943).  
63 For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16.

## Q12 – Recommended answer

The explanations are not clear in the areas of admissions, facilities/services, exclusions, positive action and exceptions, particularly where the protected characteristics of sex and gender reassignment interact.

Key problems include:

- Admissions: The example of a boys' school admitting a "trans boy" (biological female) as an exceptional admission under Schedule 11 is unclear and risks undermining the single-sex character of the school.
- Facilities and services: The changing-room example states that requiring a pupil to use biological-sex facilities is "unlikely to be justified" and likely unlawful indirect discrimination, while suggesting staff rooms as an alternative. The uniform example similarly treats sex-based rules as presumptively discriminatory.
- Exclusions: Stating that exclusion solely for declaring an intention to undergo gender reassignment is direct discrimination fails to explain how schools can still take normal safeguarding or disciplinary action.
- Positive action: The LGBT consultation example conflates sexual orientation with gender reassignment and presents external LGBT charities, "transphobic bullying" language, and special mentoring as straightforward good practice. It is not.
- Exceptions (boarding and single-sex rules): The guidance correctly requires separate-sex sleeping but then requires case-by-case justification before excluding a trans pupil from same-sex accommodation and mandates consideration of special alternative provision.

To improve clarity the guidance should:

- Explicitly state that single-sex rules (admissions, facilities, uniform, boarding, sports) based on biological sex are lawful and justified.
- Stop framing ordinary sex-based rules as potential gender-reassignment discrimination.
- Keep sexual orientation and gender reassignment clearly separate.
- Emphasise that safeguarding duties take priority in-line with KCSIE 2026.

These changes would make schools' legal responsibilities far clearer and more workable.

## Q13 & Q14 – Public Sector Equality Duty

How clearly does the guidance explain the duties that the Public Sector Equality Duty (PSED) places on schools?

✓ Not very clearly

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59 Equality Act 2010; For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16; Department for Education, Keeping Children Safe in Education (2026).

60 Department for Education, Keeping Children Safe in Education (2026).

61 Equality Act 2010, s 149.

62 School Premises (England) Regulations 2012 (SI 2012/1943).

63 For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16.

## Recommended answer (Q14 free-text)

How could we improve the explanation of the PSED in the Technical guidance for schools in England? Select all that apply.

- ☒ Add more detail on who the PSED applies to
- ☐ Include more signposting to extra information about the specific PSED duties
- ☐ Add more detail on what the PSED general duty requires
- ☐ Add more detail about what the specific PSED duties require
- ☒ Include extra information on what the PSED is relevant to in schools
- ☐ Make the PSED section less detailed
- ☒ Other (please specify):

The guidance does not clearly explain how schools should apply the PSED when the protected characteristics of sex and gender reassignment conflict. In practice the examples throughout the document (changing rooms, uniform, admissions, boarding, positive action) repeatedly prioritise avoiding gender-reassignment discrimination over the need to advance equality and eliminate discrimination for the characteristic of sex (especially for girls). This leaves schools unclear about how to give “due regard” to both characteristics at the same time under the PSED.

The PSED section should explicitly state that schools must give due regard to the need to protect single-sex provision based on biological sex, and that gender-reassignment considerations do not automatically override this. Clearer guidance on balancing competing protected characteristics is needed.

## Summary of Questions on the Definition of Schools and Legal Obligations

A short pair of factual questions follows the background section. The first asks whether the draft guidance’s definition of “school” is accurate. The definition covers local-authority maintained schools (community, voluntary aided, voluntary controlled and foundation), academies (including free schools, UTCs, studio schools and faith academies), independent schools, special schools (maintained and non-maintained), special post-16 institutions/colleges, and pupil referral units. The second question asks whether the guidance clearly explains who holds legal obligations under the Equality Act 2010. Both questions are binary (Yes / No / I do not know) and do not require free-text explanation.

In Protect and Teach’s view the definition of schools is accurate and the guidance is sufficiently clear on who bears the relevant duties; the model answers below therefore simply record “Yes” to each.

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59 Equality Act 2010; For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16; Department for Education, Keeping Children Safe in Education (2026).

60 Department for Education, Keeping Children Safe in Education (2026).

61 Equality Act 2010, s 149.

62 School Premises (England) Regulations 2012 (SI 2012/1943).

63 For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16.



## Q19 – Does the guidance take account of the law in relation to schools as the law applies for the start of the 2026 / 2027 academic year?

The guidance partially reflects the Supreme Court ruling in *For Women Scotland* that sex means biological sex at birth, but it does not fully take account of the law as it will apply for the 2026/27 academic year.

Key problems remain in the practical examples:

- Changing facilities and uniform examples still treat requiring pupils to use biological-sex provision as potentially unlawful gender-reassignment discrimination.
- Single-sex school admissions and boarding sections create pressure for exceptional or alternative provision based on gender identity.
- The overall framing does not align clearly with the safeguarding approach in KCSIE 2026, which prioritises biological sex for facilities and requires a very careful, parent-involved approach to any social transition.

For the guidance to accurately reflect the law at the start of the 2026/27 year it needs to state unambiguously that single-sex rules based on biological sex are lawful and justified, and that gender-reassignment considerations do not override them.

## Q20 – Examples in the guidance – How much do you agree or disagree with the following statements?

|                                            | Strongly disagree                | Disagree              | Neither agree nor disagree       | Agree                 | Strongly agree        |
|--------------------------------------------|----------------------------------|-----------------------|----------------------------------|-----------------------|-----------------------|
| The examples in the guidance are helpful   | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input type="radio"/> | <input type="radio"/> |
| The guidance needs more examples           | <input type="radio"/>            | <input type="radio"/> | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/> |
| The examples in the guidance are realistic | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input type="radio"/> | <input type="radio"/> |
| The examples in the guidance are accurate  | <input checked="" type="radio"/> | <input type="radio"/> | <input type="radio"/>            | <input type="radio"/> | <input type="radio"/> |

59 Equality Act 2010; *For Women Scotland Ltd v Scottish Ministers* [2025] UKSC 16; Department for Education, *Keeping Children Safe in Education* (2026).  
60 Department for Education, *Keeping Children Safe in Education* (2026).  
61 Equality Act 2010, s 149.  
62 School Premises (England) Regulations 2012 (SI 2012/1943).  
63 *For Women Scotland Ltd v Scottish Ministers* [2025] UKSC 16.

## Q20 Recommended answer

Several key examples in the guidance are unhelpful, unrealistic and inaccurate, particularly those involving sex and gender reassignment.

Problematic examples include:

- Changing facilities: stating that requiring a pupil to use biological-sex facilities is “unlikely to be justified” and likely unlawful indirect discrimination, while suggesting staff changing rooms as an alternative.
- Uniform: treating a sex-based skirts/trousers policy as potentially indirect discrimination against gender reassignment and “unlikely to be justified” without exceptions or gender-neutral options.
- Admissions: allowing a boys’ school to admit a “trans boy” (biological female) as an exceptional admission.
- Exclusions: framing exclusion solely for declaring an intention to undergo gender reassignment as direct discrimination.
- Boarding: requiring case-by-case justification before excluding a trans pupil from same-sex accommodation.
- Positive action: conflating LGB and transgender issues and presenting external LGBT charities and special mentoring as straightforward good practice.

These examples prioritise gender reassignment over biological sex, create conflict with safeguarding duties and the School Premises Regulations, and do not reflect a realistic or accurate application of the law post-For Women Scotland. The examples should be rewritten to make clear that single-sex rules based on biological sex are lawful and justified, and that gender-reassignment protection does not require opposite-sex facilities, uniform, admissions or special treatment.

## Q21 – Is any information missing from the guidance?

Is any information missing from the guidance?

☐ Yes, there is a lot of information missing

☒ Yes, some information is missing

☐ No, all information is included

☐ I do not know

Tell us what information should be added to the guidance. Your response must be fewer than 2000 characters:

59 Equality Act 2010; For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16; Department for Education, Keeping Children Safe in Education (2026).

60 Department for Education, Keeping Children Safe in Education (2026).

61 Equality Act 2010, s 149.

62 School Premises (England) Regulations 2012 (SI 2012/1943).

63 For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16.

## Q21 Recommended answer

Key information is missing on how schools should practically navigate conflicts between the protected characteristics of sex and gender reassignment, especially in light of KCSIE 2026.

The guidance needs:

- Clearer statements that single-sex provision (facilities, uniform, boarding, sports and admissions) based on biological sex is lawful, justified and consistent with both the Equality Act and KCSIE 2026 safeguarding requirements.
- Explicit recognition that KCSIE 2026 requires a very careful, documented, parent-involved approach to any request for social transition, and that schools must not initiate such changes.
- Practical decision-making frameworks showing how to balance competing rights when a pupil requests opposite-sex facilities, uniform or accommodation, prioritising the safety, privacy and dignity of all pupils (particularly girls).
- Guidance on accurate recording of biological sex in school systems and the importance of this for safeguarding, medical needs and single-sex provision.
- Better examples that illustrate lawful sex-based rules rather than framing them as potential discrimination.
- Clear separation of sexual orientation from gender reassignment, avoiding the conflation of LGB issues with gender identity.
- Advice on how the Public Sector Equality Duty requires due regard to eliminating discrimination and advancing equality for the characteristic of sex, not only gender reassignment.

Without this practical clarity, schools are left uncertain how to comply with both the Equality Act and their statutory safeguarding duties under KCSIE for the 2026/27 academic year.

## Q22. Tell us what other support we could offer to help schools understand and comply with the Equality Act 2010.

**Your response must be fewer than 2000 characters**

## Q22 Recommended answer

Schools need practical, unambiguous support that reflects the law as clarified by the Supreme Court and aligns with KCSIE 2026. Useful additional support would include:

- Short, clear decision-making flowcharts for common scenarios involving sex and gender reassignment (facilities, uniform, boarding, sports, admissions and social transition requests).
- Model policies that correctly prioritise biological sex for single-sex provision while remaining compliant with the Equality Act.
- Worked examples showing how to give proper “due regard” under the Public Sector Equality Duty when sex and gender reassignment appear to conflict, with safeguarding of all pupils (especially girls) as the starting point.

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59 Equality Act 2010; For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16; Department for Education, Keeping Children Safe in Education (2026).

60 Department for Education, Keeping Children Safe in Education (2026).

61 Equality Act 2010, s 149.

62 School Premises (England) Regulations 2012 (SI 2012/1943).

63 For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16.

## Q22 Recommended answer continued...

- Explicit guidance on accurate recording of biological sex and the limits of social transition in light of KCSIE 2026.
- Separate, distinct advice on sexual orientation and gender reassignment so the two characteristics are not conflated.
- Regularly updated FAQs and case studies that avoid framing ordinary sex-based rules as potential discrimination.

Clear, practical tools of this kind would significantly reduce uncertainty and help schools comply with both the Equality Act and their statutory safeguarding duties.

## Q23. What actions might you or your organisation take in response to the finalised Technical guidance for schools in England?

Select all that apply.

### Next steps

The remaining questions ask about what you might do in response to the guidance and your experience of accessing the guidance. There is also space for you to add any further comments.

What actions might you or your organisation take in response to the finalised Technical guidance for schools in England? Select all that apply.

☒ Review policies, practices or facilities

☒ Update policies

☐ Change practices

☒ Update staff training

☒ Other

☐ None - no action will be taken

Tell us more about your response. For example, which policies, practices or training will you change and how? Your response must be fewer than 2000 characters:

59 Equality Act 2010; For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16; Department for Education, Keeping Children Safe in Education (2026).

60 Department for Education, Keeping Children Safe in Education (2026).

61 Equality Act 2010, s 149.

62 School Premises (England) Regulations 2012 (SI 2012/1943).

63 For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16.



## Q23 Recommended answer

If the final guidance correctly prioritises biological sex for single-sex facilities, uniform, boarding and admissions, and aligns with KCSIE 2026, we will review and update relevant school policies (equalities, uniform, facilities, safeguarding, admissions and boarding) and staff training to ensure full compliance.

We will specifically ensure that:

- Biological sex is accurately recorded and used for single-sex provision.
- Staff understand that gender-reassignment protection does not require opposite-sex facilities, uniform or social transition.
- Safeguarding and the best interests of all pupils remain the priority.
- Sexual orientation and gender reassignment are treated as distinct characteristics.

**If the final guidance retains the current unbalanced examples and framing, we will still review policies but will prioritise legal compliance with the Supreme Court ruling on sex and with statutory safeguarding duties under KCSIE over any non-statutory examples that conflict with them.**

## Summary of Questions 24–26 (Usability and Access)

Towards the end of the survey a short block of practical questions asks about the user experience of the consultation materials. Respondents are invited to rate, on a five-point scale, how easy the guidance was to find on the EHRC website, how easy the webpages were to use, how accessible the content was with assistive technology, how easy the language was to understand, and how easy the structure was to navigate.

A further question asks where the respondent first learned about the consultation (for example, EHRC newsletter or other channels), and a final question asks how the guidance was read (on the webpages, as a downloaded document, etc.).

These questions are purely about process and accessibility; they do not require substantive legal comment.

## Q27. Tell us about any further comments you have about the Technical guidance for schools in England.

**Your response must be fewer than 2000 characters:**

This is the final question to sum up your key points and suggestions.

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59 Equality Act 2010; For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16; Department for Education, Keeping Children Safe in Education (2026).

60 Department for Education, Keeping Children Safe in Education (2026).

61 Equality Act 2010, s 149.

62 School Premises (England) Regulations 2012 (SI 2012/1943).

63 For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16.

## Q27 Recommended answer

The draft Technical guidance for schools in England contains significant problems in its treatment of the protected characteristics of sex and gender reassignment.

While it correctly records that sex means biological sex at birth, the practical examples repeatedly undermine this by framing ordinary sex-based rules (changing facilities, uniform, boarding, admissions) as potentially unlawful gender-reassignment discrimination. Suggesting staff rooms as alternatives, treating sex-based uniform policies as presumptively discriminatory, and creating pressure for exceptional admissions or special accommodation all conflict with the School Premises Regulations, safeguarding duties, and the direction of KCSIE 2026. The guidance also conflates sexual orientation with gender reassignment in positive-action and bullying examples, which is inaccurate and unhelpful.

Schools need clear, workable guidance that:

- States unambiguously that single-sex provision based on biological sex is lawful and justified;
- Explains how to balance competing protected characteristics under the Public Sector Equality Duty, with the safety, privacy and dignity of all pupils (especially girls) as the starting point;
- Aligns with KCSIE 2026's careful, parent-involved approach to any social transition request;
- Keeps sexual orientation and gender reassignment distinct.

Without these corrections the guidance risks creating confusion, increasing legal risk for schools, and weakening protections based on sex.

This is the final question in the survey. After selecting 'Finish survey' you will not be able to go back and review your answers.

Provide your email address if you would like to be contacted about our future work or research in this area:

[Previous Page](#)[Finish Survey](#)[Save and continue later](#)

These model answers, used consistently by respondents, will help the Commission produce final guidance that is legally accurate, practically workable and fully aligned with the safeguarding duties that must remain central to every decision affecting children.

59 Equality Act 2010; For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16; Department for Education, Keeping Children Safe in Education (2026).

60 Department for Education, Keeping Children Safe in Education (2026).

61 Equality Act 2010, s 149.

62 School Premises (England) Regulations 2012 (SI 2012/1943).

63 For Women Scotland Ltd v Scottish Ministers [2025] UKSC 16.