

Response of the Coalition for Marriage to the Equality and Human Rights Commission consultation on the draft Technical guidance for schools in England

Submitted by: Coalition for Marriage (C4M)

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Consultation: Technical guidance for schools in England, Equality and Human Rights Commission, published 10 June 2026, closing at 11.59pm on 30 September 2026, at <https://www.equalityhumanrights.com/guidance/technical-guidance-schools-consultation>

The five answers below follow the free-text questions of the survey for England, and our answers to its tick-box questions are listed after them.

About the Coalition for Marriage

Coalition for Marriage is a grassroots campaign founded in 2012 to defend marriage as the voluntary, exclusive, lifelong union of one man and one woman. We speak for supporters across the United Kingdom, drawn from every walk of life, and our published work is at <https://www.c4m.org.uk>

Summary of our position

The definition of marriage we defend rests on what “man” and “woman” mean. Parliament removed the requirement that the parties to a marriage be male and female in the Marriage (Same Sex Couples) Act 2013, at <https://www.legislation.gov.uk/ukpga/2013/30/schedule/7/paragraph/27/enacted> The Equality Act is now the one statute in which the Supreme Court has held that “sex”, “man” and “woman” mean “biological and not certificated sex”, at https://supremecourt.uk/uploads/uksc_2024_0042_judgment_aea6c48cee.pdf The Court said its role wasn’t “to define the meaning of the word ‘woman’ other than when it is used in the provisions of the EA 2010”. The Commission’s draft states that meaning, applies it to sport, and has a boy who identifies as a girl board with the boys unless the school can justify moving him. Then, in its chapter on school facilities, it keeps the same boy out of the girls’ changing room and tells the school it is likely to be unlawful to make him use the boys’. We ask the Commission to treat the boys’ changing room as it treats the boys’ dormitory, to tell a school that it should tell the boy’s mother and father, to show a school that it may teach that marriage is the voluntary, exclusive, lifelong union of one man and one woman, and to say whether its draft for Scottish schools is silent on the girls’ changing room because Scots law requires it to be.

ANSWER 1 - Is information missing under the protected characteristics? Yes, under sex, gender reassignment, and religion or belief

We answer as a marriage campaign. The definition of marriage we defend rests on what “man” and “woman” mean, and until the Marriage (Same Sex Couples) Act 2013 removed the requirement, section 11(c) of the Matrimonial Causes Act 1973 made a marriage void if “the

parties are not respectively male and female”, at

<https://www.legislation.gov.uk/ukpga/1973/18/section/11/enacted?view=plain> The Equality Act is now the one statute in which the Supreme Court has held that “sex”, “man” and “woman” mean “biological and not certificated sex”, at

https://supremecourt.uk/uploads/uksc_2024_0042_judgment_aea6c48cee.pdf So we read this draft for one thing, whether it transfers that meaning to the places where children undress.

Under sex, what’s missing is any example of a boy who identifies as a girl being told he may lawfully change with the boys. The draft states the meaning of sex plainly in chapter 3. Its one changing-room example, in chapter 5, keeps that boy out of the girls’ room, then says that requiring him to use the boys’ is “likely to be unlawful indirect gender reassignment discrimination”, and no example applies the single-sex rule to toilets.

Under gender reassignment, what’s missing is the school’s side of the case. The example calls the decision “unlikely to be justified” without naming what the school was trying to achieve, which is the single-sex changing that chapter 5 says the law requires, and a school is never shown how that aim is weighed.

Under religion or belief, what’s missing is any example showing a school that it may teach that marriage is the union of one man and one woman.

ANSWER 2 - Does the guidance take account of the law for the start of the 2026/2027 academic year? No

No. The draft applies the Supreme Court’s meaning of sex to keep a boy out of the girls’ changing room, and then treats the boys’ changing room in the reverse of the way it treats the boys’ dormitory.

Chapter 3 records that the Supreme Court “ruled that ‘sex’ under the Act means the sex of a person at birth”, and chapter 10 applies it to sport. For boarding, chapter 10 says that “excluding a pupil from accommodation provided for their own sex should only be considered on a case-by-case basis where this is a proportionate means of achieving a legitimate aim”. So a boy who identifies as a girl boards with the boys unless the school can justify moving him.

Chapter 5 turns that round. It rules out the girls’ changing room, and then says that if the school requires him to use the boys’ room, that’s “unlikely to be justified and so is likely to be unlawful indirect gender reassignment discrimination”. In the dormitory the boys’ room is his unless the school can justify moving him, but in the changing room it’s requiring him to use the boys’ room that has to be justified, and the example says it probably can’t be. The draft never explains the difference.

That matters this term. Paragraph 276 of Keeping Children Safe in Education 2026, in force since 1 September, tells schools they “must not allow pupils into toilets, changing rooms, or boarding or residential accommodation designated for the opposite sex, with no exceptions”, at https://assets.publishing.service.gov.uk/media/6a9081309a177a1decf97b00/Keeping_children_safe_in_education_2026.pdf A school without a spare lockable room that follows that guidance is left with the boys’ changing room, which this draft’s only changing-room example calls it likely unlawful to require. The Commission says its guidance “may be used as evidence

in legal proceedings”, and that a school which doesn’t follow it “will need to provide reasons why they have not done so”.

ANSWER 3 - How the examples could be improved

The changing-room example should tell a school what it may lawfully do, and not only what it may not. As drafted it rules out the girls’ room, calls requiring the boys’ room likely unlawful, and describes one course as suitable, a single-user room that “might be a staff changing room or a mixed-sex accessible bathroom”. It never considers a school that has no such room. Rewrite it so a school is told that a boy may change in the boys’ room, with a single room offered as an accommodation and not as the only lawful course.

The same example should name the boy’s parents. A school decides where he will change for physical education, and his mother and father never appear. Elsewhere the draft calls it “advisable for schools to explain to staff, parents and pupils why positive action is being taken”, and counts it good practice when a school “sends a newsletter to all parents” about a computer club for girls. A decision about where one boy undresses matters at least as much to his own mother and father, and the example should say that the school tells them.

Then add the example that isn’t there. The Commission’s own chapter 5 says the law requires “single-sex toilet facilities for children aged eight and over”, and no worked example ever applies that to a pupil.

ANSWER 4 - The information that should be added

Please add a worked example showing that a school may teach, as part of its curriculum, that marriage is the voluntary, exclusive, lifelong union of one man and one woman.

Chapter 5 already states the principle. A school’s obligations under the Act “do not apply to anything done in connection with the content of the curriculum”, schools “have the academic freedom to expose pupils to a range of thoughts and ideas, even if controversial”, and content that offends pupils with certain protected characteristics “will not make it unlawful”. The draft illustrates that with evolution and with *Of Mice and Men*, and never with marriage.

The one lesson about relationships that the draft does describe is offered as possible discrimination. In chapter 3, a teacher in a personal, social, health and economic education lesson “describes homosexuality as ‘unnatural’ and states that he will be covering only straight relationships in the lesson”, and the draft says “This may be direct discrimination”. It never says which of the two is the problem. On the Commission’s own test in chapter 5, the remark goes to how the lesson is taught, while the choice of what to cover is content of the curriculum, which chapter 5 puts outside a school’s obligations under the Act. As it stands, a head teacher reading the example can’t tell whether a lesson teaching that marriage is between one man and one woman puts the school at risk. The example should separate the remark from the choice of content, and the guidance should say that teaching what marriage is falls within the freedom chapter 5 describes.

ANSWER 5 - Further comments

The Commission's draft for Scottish schools, on the same consultation page, at <https://www.equalityhumanrights.com/guidance/technical-guidance-schools-consultation> gives the same example of a school deciding where a boy who identifies as a girl should change, without two of the English version's sentences. Those are the sentences that tell an English school it "must provide single-sex changing facilities" and that it is "therefore not permissible to allow the pupil to use the girls' changing room". What remains tells a Scottish school that it would likely be unlawful to require him to use the boys' room, and that a single-user room might be suitable, and leaves the girls' changing room unmentioned. The Scottish boarding example drops the English school's refusal and its statutory reason in the same way.

We accept that Scotland's school premises regulations differ from England's and contain no rule that changing rooms or dormitories be separated by sex, at <https://www.legislation.gov.uk/ukxi/1967/1199/contents> But the Act's meaning of sex is the same in all three nations, and so is its permission for single-sex dormitories in Schedule 23 paragraph 3, whose communal accommodation includes shared sleeping accommodation "which for reasons of privacy should be used only by persons of the same sex", at <https://www.legislation.gov.uk/ukpga/2010/15/schedule/23/paragraph/3> A Scottish head teacher needs to know what the Act allows as much as an English one does, and the Scottish draft's boarding example doesn't say.

We ask the Commission to state, when it publishes its response to this consultation, whether each difference between the English and Scottish examples comes from a difference between the two nations' laws or was a drafting choice.

The survey's tick-box answers, in the order the survey asks them

This is the England survey: yes. Taking part in the research: yes. Aged 16 or over: yes. Read the guidance: yes. Responding as: an organisation. Type of organisation: other, a campaign organisation. Name of organisation: Coalition for Marriage. Our work focuses on: sex, gender reassignment, religion or belief. Views from a child: the response doesn't include any. How we will use the guidance: to understand the law in a particular area, and to inform our campaigning. Information missing under sex: yes. Under gender reassignment: yes. Under religion or belief: yes. Does the guidance take account of the law for 2026/2027: no. The guidance needs more examples: agree. The examples are realistic: neither agree nor disagree. The examples are accurate: disagree. Is any information missing: yes, some information is missing.

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