

To Headteachers, Chairs of Governors,
Designated Safeguarding Leads and Trust
Leaders



Dear Colleagues,

Ref: Safeguarding First: Preparing for *Keeping Children Safe in Education 2026*

The Department for Education published *Keeping Children Safe in Education 2026* on 7 July 2026. It is presently provided for information and comes into force on 1 September 2026. Schools and colleges must continue to use KCSIE 2025 until 31 August 2026.¹

The new document is statutory guidance. It states:

“Schools and colleges in England must have regard to it when carrying out their duties to safeguard and promote the welfare of children.”²

KCSIE also explains the precise significance of its operative terminology:

“We use the term ‘must’ when the person in question is legally required to do something, and ‘should’ when the advice set out should be followed unless there is good reason not to.”²

Those distinctions must be preserved. A policy should not convert **should** into **must**, weaken **must not** into a general preference, or introduce exceptions where the guidance says “**with no exceptions**”.²

The underlying statutory duty requires governing bodies to make arrangements so that their functions are exercised:

“with a view to safeguarding and promoting the welfare of children who are pupils at the school.”³

KCSIE 2026 provides an opportunity to establish whether policies, individual arrangements, records, facilities and staff practice remain consistent with the statutory framework that will apply from September.^{1 2}

We hope that schools will approach this review not as a political exercise, but as an opportunity to strengthen safeguarding, restore parental confidence and demonstrate accountable governance.

Safeguarding first

We encourage schools to place one principle at the centre of every decision:

Safeguarding first. First do no harm.

KCSIE states that safeguarding is everyone's responsibility, that practitioners should act in the child's best interests and that no single practitioner possesses a complete picture of a child's circumstances.⁴

In relation to children questioning their gender, the guidance requires schools to consider the child's full experience, including possible mental-health and psychosocial needs, family and peer relationships, bullying, wider health issues and neurodiversity.^{5 6}

KCSIE states:

"Schools and colleges should not initiate any action regarding social transition."⁶

It further provides:

"Members of staff should not adopt any changes relating to social transition unless a decision has been made by a school or college and a child's parents or carers have been involved as set out in this guidance."⁶

Requests involving names, pronouns, uniform, records or other forms of institutional treatment should therefore be handled through an authorised, documented process rather than an informal arrangement made by an individual employee.⁶

Parents and carers

KCSIE states:

"Parents and carers have the leading role in the lives of their children, and this area should be no exception."⁷

It directs schools and colleges to engage parents or carers "as a matter of priority" and says that their views "should carry great weight and be properly considered".⁷

The guidance identifies an exception only in:

"the rare circumstances where involving parents or carers would constitute a greater risk to the child than not involving them".⁷

In such circumstances, the designated safeguarding lead should determine what action is required before parents are contacted or a decision is made.⁷

PSHE Brighton recommends that any reliance upon this exception be supported by an individual safeguarding assessment identifying the nature and evidence of the greater risk, together with a written record of the decision and its reasons.⁷

Social transition

KCSIE states:

“social transition should be viewed as an active intervention that may have significant effects on the child or young person in terms of their psychological functioning and longer-term outcomes.”⁸

It records a lack of good evidence concerning the long-term impact of social transition upon young people and directs primary schools to exercise particular caution.⁸

KCSIE says that support for full social transition in primary schools should be agreed “very rarely” and that advice concerning the risks and benefits of social transition as a planned intervention is not a role for staff without appropriate clinical training.⁸

The guidance also states:

“a decision relating to social transition may not be the same as a child’s wishes.”⁶

The decision should instead be reached by considering the child’s best interests, the interests of other affected children, parental involvement, relevant evidence and appropriate professional advice.⁶

Facilities, sport and records

KCSIE states:

“schools must not allow pupils into toilets, changing rooms, or boarding or residential accommodation designated for the opposite sex, with no exceptions”.⁹

Where single-sex sport has been adopted for safety reasons, KCSIE states that there should be no exceptions and pupils must not participate in sport designated for the opposite sex.⁹

The School Premises (England) Regulations 2012 separately require:

“Separate toilet facilities for boys and girls aged 8 years or over”.¹⁰

The regulatory exception is a toilet contained in a secure room intended for use by one pupil at a time.¹⁰

Comparable requirements apply to independent schools, together with a requirement for suitable changing accommodation and showers for pupils aged eleven or over who receive physical education.¹¹

KCSIE also states:

“Schools and colleges are legally required to record a child’s biological sex accurately wherever it is recorded.”⁹

It separately says that all relevant staff should be aware of the child’s biological sex in every case.⁹

Existing decisions

KCSIE does not impose an unconditional requirement that every previous arrangement must be ended or changed. It states:

“schools and colleges will in particular want to consider whether previous decisions taken prior to this guidance coming into force remain appropriate”.⁹

The review should take account of the effect of any change upon the child and the guidance’s principle concerning parental involvement.⁹

PSHE Brighton therefore recommends that schools identify existing arrangements, review them individually and record whether each remains appropriate under the new guidance.^{7 9}

Seven actions before September

PSHE Brighton respectfully recommends that every school and trust:

1. **Commission a governor-led policy review** of safeguarding, social-transition, equality, anti-bullying, confidentiality and parental-engagement policies.^{2 5 6 7}
2. **Review existing individual arrangements** and record whether they remain appropriate, including the effect of either maintaining or changing them.⁹
3. **Create a formal decision-making pathway** specifying who may authorise a change, how parents and the DSL are involved, what evidence is considered and when a decision will be reviewed.^{6 7}
4. **Audit toilets, changing rooms, residential arrangements and sport** against the mandatory wording of KCSIE and the applicable premises regulations.^{9 10 11}
5. **Audit records and information-sharing arrangements** to ensure that biological sex is recorded accurately and relevant safeguarding information is shared lawfully and proportionately.^{9 12}
6. **Brief the whole workforce using the actual wording of KCSIE**, preserving the distinction between **must**, **must not** and **should**.^{2 13}
7. **Communicate material policy changes to parents**, explaining how requests will be considered, when parents will be involved and how the school will protect every affected child.⁷

KCSIE 2026 gives schools an opportunity to move forward on a clearer safeguarding and legal foundation. Its operative language should be presented accurately: neither exaggerated nor softened.

PSHE Brighton remains willing to discuss implementation constructively with schools, trusts and governing bodies.

Our objective remains the same:

Safeguarding first. First do no harm.

Legal and Statutory Annex

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A. Status and commencement

Keeping Children Safe in Education 2026 is presently an information version and comes into force on 1 September 2026.¹

Until 31 August 2026, schools and colleges must continue to use the 2025 guidance.¹

KCSIE 2026 states:

“This is statutory guidance from the Department for Education (‘the Department’) issued under Section 175 of the Education Act 2002 (as amended), the Education (Independent School

Standards) Regulations 2014, the Non-Maintained Special Schools (England) Regulations 2015 and the Apprenticeships, Skills, Children and Learning Act 2009 (as amended).”²

It continues:

“Schools and colleges in England must have regard to it when carrying out their duties to safeguard and promote the welfare of children.”²

KCSIE explains that **must** identifies a legal requirement, while **should** identifies advice that is to be followed unless there is good reason not to.²

Accordingly, a departure from a provision expressed as **should** is not necessarily unlawful in itself, but the setting should be capable of identifying and recording its good reason for departing from the guidance.²

B. Child-centred safeguarding

KCSIE states:

“Safeguarding and promoting the welfare of children is everyone’s responsibility.”⁴

It defines a child-centred approach as one in which practitioners:

“should consider, at all times, what is in the best interests of the child.”⁴

It also states:

“No single practitioner can have a full picture of a child’s needs and circumstances.”⁴

KCSIE consequently requires those who encounter children to play their part in identifying concerns, sharing information and taking prompt action.⁴

In relation to gender-questioning children, schools should remain professionally curious about the full range of the child’s experiences and possible vulnerabilities.⁵

The guidance specifically refers to complex mental-health and psychosocial needs, family and peer relationships, the wider social environment and discriminatory bullying.⁵

It further requires consideration of wider health issues and neurodiversity when assessing a request for support with social transition.⁶

C. Bullying and respectful treatment

KCSIE states that all forms of bullying are unacceptable and that schools and colleges:

“must take a strong, proactive stand against all forms of bullying”.⁵

It also says that bullying should be addressed at the earliest opportunity to prevent escalation.⁵

The requirement to prevent bullying applies alongside, rather than instead of, the duties concerning social transition, facilities, equality and safeguarding.^{5 6 9}

KCSIE requires schools to remain conscious of the rights of pupils and staff concerning religion or belief.⁹

Where pronoun use produces a conflict, it identifies “using names instead of pronouns” as an option that may be discussed.⁹

D. Parental responsibility and parental engagement

Section 3(1) of the Children Act 1989 defines parental responsibility as:

“all the rights, duties, powers, responsibilities and authority” a parent has by law in relation to the child.¹⁴

That statutory definition does not itself determine the outcome of a particular school safeguarding decision.¹⁴

KCSIE provides the specific direction applicable to requests for support with social transition:

“schools and colleges should engage parents/carers as a matter of priority.”⁷

It also states:

“the views of the child’s parents or carers should carry great weight and be properly considered.”⁷

The exception applies only where involving parents or carers would create a greater risk to the child than not involving them.⁷

Where that exception is engaged, the DSL should determine the necessary safeguarding action before parents are contacted or a decision is taken.⁷

KCSIE distinguishes a request for institutional action from a child merely confiding feelings to a member of staff.⁷

Where the child requests no change in treatment, KCSIE says there is no reason to break confidence unless a related safeguarding risk exists.⁷

E. Initiating and authorising social transition

KCSIE states:

“Schools and colleges should not initiate any action regarding social transition”.⁶

This is expressed as **should not**, rather than **must not**.^{2 6}

KCSIE nevertheless directs that staff should not adopt changes unless the school or college has made a decision and parents or carers have been involved in accordance with the guidance.⁶

The decision-making process should be documented and records should be kept.⁶

Schools and colleges must comply with their safeguarding, equality and human-rights obligations when making the decision.⁶

The welfare and best interests of the child and other children must inform the assessment of discrimination.⁶

F. Wishes, best interests and professional advice

KCSIE states that the first step is to consider:

“what is in the best interests of the child and other children”.⁶

It expressly provides that:

“a decision relating to social transition may not be the same as a child’s wishes.”⁶

The guidance expects schools and colleges, in the vast majority of cases, to work with parents or carers to determine the child’s best interests.^{6 7}

It directs schools to consider clinical evidence or advice and relevant non-clinical professional advice, including advice from the SENCO and involvement of the DSL where applicable.⁶

Listening to the child is therefore part of the decision-making process, but the requested outcome is not made automatically determinative by KCSIE.⁶

G. Social transition as an active intervention

KCSIE states:

“there is a lack of good evidence on the long-term impact of social transition on young people”.⁸

It then states:

“social transition should be viewed as an active intervention”.⁸

The guidance says that the intervention may have significant effects upon psychological functioning and longer-term outcomes.⁸

Primary schools should exercise particular caution, and KCSIE says that full social transition should be agreed only very rarely.⁸

Clinical advice on the risks and benefits of social transition as a planned intervention is not a role for staff without appropriate clinical training.⁸

H. Equality law

KCSIE states that schools and colleges:

“must also comply with their duties under the Equality Act 2010 and the Human Rights Act 1998.”⁹

Section 149 of the Equality Act requires due regard to eliminating prohibited discrimination, advancing equality of opportunity and fostering good relations.¹⁵

These duties apply to the protected characteristics relevant to the particular function and circumstances.¹⁵

In *For Women Scotland Ltd v Scottish Ministers*, the Supreme Court held that the words “sex”, “woman” and “man” in sections 11 and 212 of the Equality Act mean biological sex, biological woman and biological man.¹⁶

The Court also held that this interpretation does not remove or diminish the Equality Act protections available to trans people, including those possessing a Gender Recognition Certificate.¹⁶

Sex and gender reassignment therefore remain distinct protected characteristics under the Equality Act.¹⁶

I. Human rights

Section 6 of the Human Rights Act 1998 provides:

“It is unlawful for a public authority to act in a way which is incompatible with a Convention right.”¹⁷

Convention rights potentially relevant to school decision-making include respect for private and family life, freedom of thought, conscience and religion, and freedom of expression.¹⁷

Those rights are subject to the wording, limitations and proportionality requirements contained in the relevant Convention articles.¹⁷

Their precise application depends upon the facts of the individual case.¹⁷

J. Toilets, changing rooms and accommodation

KCSIE states:

“schools must not allow pupils into toilets, changing rooms, or boarding or residential accommodation designated for the opposite sex, with no exceptions”.⁹

This provision uses **must not** and expressly says **with no exceptions**.⁹

The School Premises (England) Regulations 2012 require separate toilets for boys and girls aged eight or over.¹⁰

The exception applies where the toilet is in a room that can be secured from inside and is intended for use by one pupil at a time.¹⁰

The Education (Independent School Standards) Regulations 2014 impose comparable toilet requirements upon independent schools.¹¹

Those Regulations also require suitable changing accommodation and showers for pupils aged eleven or over who receive physical education.¹¹

PSHE Brighton therefore recommends an audit of actual access arrangements and not merely the language appearing in published policies.^{9 10 11}

K. Sport

KCSIE states that, where single-sex sport is necessary for safety:

“there should be no exceptions”.⁹

It further states that pupils must not participate in sport designated for the opposite sex in those circumstances.⁹

Section 195 of the Equality Act identifies fair competition and competitors’ safety as relevant considerations in gender-affected competitive activity.¹⁸

For children, section 195 also requires account to be taken of age and stage of development when determining whether an activity is gender-affected.¹⁸

KCSIE's specific mandatory direction should therefore be applied where the school has adopted single-sex sport for safety reasons.⁹

L. Accurate information and records

KCSIE states:

“Schools and colleges are legally required to record a child’s biological sex accurately wherever it is recorded.”⁹

It separately states that schools and colleges should ensure all relevant staff are aware of the child’s biological sex in every case.⁹

The first proposition is described by KCSIE as a legal requirement; the second is expressed as **should**.^{2 9}

To give practical effect to that requirement, PSHE Brighton recommends that systems distinguish clearly between biological sex, any preferred name and other information recorded for day-to-day use.⁹

That recommendation is intended to prevent an informal or preferred identifier from obscuring the biological-sex information that KCSIE says must be recorded accurately.⁹

M. Children living in stealth

KCSIE describes a child as “living in stealth” where friends or staff may be unaware of the child’s biological sex.⁹

It directs schools and colleges to be particularly conscious of such children’s vulnerabilities and to involve the DSL.⁹

An informal assurance of confidentiality made by an individual employee should not displace the DSL’s role or prevent relevant safeguarding information from being considered.^{9 12}

N. Reviewing previous arrangements

KCSIE states that circumstances or a child’s needs may change and that a school may need to review its original decision.⁹

It directs the setting to involve the DSL immediately when deciding whether a review is required.⁹

KCSIE also states that schools and colleges will want to consider whether decisions made before the guidance came into force remain appropriate.⁹

This is a strong expectation expressed in guidance, but it is not framed as an unconditional **must**.^{2 9}

Any review should consider the effect of changing the arrangement upon the child and the principle of parental involvement.^{7 9}

Where a child wishes fully or partly to reverse an earlier request, KCSIE directs schools to work closely with parents or carers and relevant experts to provide support.⁹

O. Information-sharing and confidentiality

KCSIE states:

“Data protection laws do not prevent the sharing of information for the purposes of keeping children safe and promoting their welfare.”¹²

It continues:

“Fears about sharing information must not be allowed to stand in the way of the need to safeguard and promote the welfare of children.”¹²

KCSIE nevertheless requires professional judgment so that information shared is focused, relevant and proportionate.¹²

Information should not be omitted where it may be relevant to understanding or managing safeguarding risk.¹²

The Children’s Wellbeing and Schools Act 2026 inserted a new information-sharing duty into the Children Act 2004.¹⁹

KCSIE states that specific statutory guidance concerning that duty will be provided after consultation.¹²

Schools should therefore check the commencement provisions and final statutory guidance before relying upon the detailed operation of the new duty.^{12 19}

P. Staff training

KCSIE 2026 requires governing bodies and proprietors to ensure that staff working directly with children read at least Part One.¹³

It now also says that staff who do not work directly with children should read Part One.¹³

Mechanisms should be in place to help all staff understand and discharge the responsibilities set out in Part One.¹³

PSHE Brighton recommends that training reproduce KCSIE's operative terminology directly rather than relying solely upon a secondary summary that does not preserve the distinction between **must** and **should**.^{2 13}

Q. Volunteers and regulated activity

The attached 2012 factual note records the former supervised-volunteer exemption from regulated activity.²⁰

That aspect of the note will not state the operative position from 1 September 2026.^{20 21}

The Department for Education states that the Crime and Policing Act 2026 removes the supervision exemption from that date.²¹

From 1 September 2026, volunteers undertaking regulated activity frequently, for more than three days in a thirty-day period, or overnight will require an enhanced DBS check containing children's barred-list information.²¹

Occasional volunteering that does not meet the relevant frequency or overnight conditions will not automatically become regulated activity because of the change.²¹

The attached 2012 note should therefore be marked:

****Historical source: do not rely upon its supervised-volunteer exemption for arrangements applying from 1 September 2026.****^{20 21}

R. Contractors and external providers

KCSIE says that safeguarding requirements should be incorporated into contracts for services.²²

Contractors engaging in regulated activity require the appropriate enhanced DBS check including children's barred-list information.²²

Other contractors whose work gives them an opportunity for regular contact with children require the level of check specified by KCSIE for their circumstances.²²

KCSIE states:

“Under no circumstances should a contractor on whom no checks have been obtained be allowed to work unsupervised or engage in regulated activity relating to children.”²²

Schools and colleges remain responsible for determining the appropriate level of supervision.²²

PSHE Brighton recommends that external counsellors, pastoral providers and other organisations operate within the school’s authorised safeguarding, record-keeping and DSL arrangements.^{6 12 22}

Footnotes

1. Department for Education, “Keeping children safe in education”, updated 7 July 2026: KCSIE 2025 is for use until 31 August 2026 and KCSIE 2026 comes into force on 1 September 2026.
2. Department for Education, *Keeping Children Safe in Education 2026*, p. 5, “The status of this guidance” and “About this guidance”.
3. Education Act 2002, s.175(2).
4. Department for Education, *Keeping Children Safe in Education 2026*, paras 1–3.
5. Ibid., paras 254–257.
6. Ibid., paras 258–265.
7. Ibid., paras 266–269.
8. Ibid., paras 270–272.
9. Ibid., paras 273–282.
10. School Premises (England) Regulations 2012, SI 2012/1943, reg.4(2).
11. Education (Independent School Standards) Regulations 2014, SI 2014/3283, Schedule, Part 5, para.23.
12. Department for Education, *Keeping Children Safe in Education 2026*, paras 60–61 and 141–147.
13. Ibid., pp. 7–10 and Part One summary.
14. Children Act 1989, s.3(1).
15. Equality Act 2010, s.149(1).
16. *For Women Scotland Ltd v Scottish Ministers* [2025] UKSC 16, paras 248–265, especially para.264.
17. Human Rights Act 1998, s.6(1) and Schedule 1, Articles 8–10.
18. Equality Act 2010, s.195(2)–(4).
19. Children’s Wellbeing and Schools Act 2026, s.4, inserting Children Act 2004, ss.16LA–16LC.
20. HM Government, *Regulated Activity in Relation to Children: Scope*, pp. 3–8.
21. Department for Education, “Regulated activity: removal of the supervision exemption”, updated 29 June 2026.
22. Department for Education, *Keeping Children Safe in Education 2026*, paras 366–371.