

STATES OF JERSEY



TREATING CHILDREN AS CHILDREN (P.14/2026) : COMMENTS

**Presented to the States on 4th March 2026
by the Minister for Education and Lifelong Learning**

STATES GREFFE

COMMENTS

Introduction

The Minister for Education and Lifelong Learning rejects this proposition for the reasons detailed below and would urge all other Members to vote contre.

The Minister appreciates the Proposer's clarification that neither he nor the Women's Rights Network Jersey (WRNJ) are transphobic and their valuable recognition that a small number of children have gender dysphoria. It is important that all members of society recognise and accept that gender dysphoria is reality for some children.

Gender Dysphoria is defined by the National Health Service as:

“Gender dysphoria is a term that describes a sense of unease that a person may have because of a mismatch between their biological sex and their gender identity.

This sense of unease or dissatisfaction may be so intense it can lead to depression and anxiety and have a harmful impact on daily life.”

Gender Dysphoria is defined in the Cass Review (referred to by the proposer) as:

“Diagnostic term used by health professionals and found in DSM-5 outlined above (American Psychiatric Association, 2013). Gender dysphoria describes “a marked incongruence between one's experienced/ expressed gender and assigned gender of at least 6 months duration” which must be manifested by a number of criterion.”

While the proposer confirms his recognition of gender dysphoria in children, this proposition and the document it supports appear to be largely dismissive of it.

Petition

The Proposer asserts the Minister was dismissive of the petition. The Minister rejected the petition request to revoke the current guidance, as it made a series of inaccurate claims which would have been easy to identify by anyone who had read the guidance. These inaccurate claims were refuted with evidence in the petition response which (for ease of all Members) can be read here:

[Revoke trans guidance in schools until parents have been fully consulted - Petitions](#)

The Existing Guidance

The Minister does not accept the WRNJ view of the existing guidance and Members will have received a large number of emails from constituents who also do not agree with the WRNJ or the Proposer.

The Minister has been overwhelmed by the many heartfelt emails which describe the negative effect this proposition has had just by being lodged, let alone the thought of it being accepted.

The Minister also welcomes Members and fully supports the [Comments](#) recently published by the Privileges and Procedures Committee (PPC) on behalf of the Diversity Forum Sub Committee.

“Having considered the matter, the Diversity Forum Sub-Committee collectively indicates its support for CYPES’ current inclusion guidance and urges members to reject Deputy Bailhache’s proposition”

The existing guidance was co-produced by CYPES working in collaboration with representatives from schools, parents and various agencies on the Island. It is an important resource for schools. It remains subject to ongoing and future review, with the wellbeing and welfare of children and young people at the forefront.

The existing guidance applies to staff in schools, both teaching and non-teaching, and is for their use only. It offers a guidance tool for schools to use at the point at which a child discloses to them their thoughts around their gender. This will be a very small proportion of the school population (as acknowledged by the Proposer), and most children and families will not be affected by the guidance or need to use this guidance.

The Proposer purports the guidance adopts an “activist script” by recognising and supporting some children who may have gender dysphoria, a condition he recognises. The Minister refutes this accusation.

Recent announcements in England

As Members are no doubt aware, in England the Department for Education (DfE) announced earlier this month a draft of its new guidance for gender-questioning children in England. They are planning to embed this guidance within their statutory Keeping Children Safe in Education document to be published on 1 September 2026, ready for their schools to apply from next academic year. CYPES officers are, and will continue to, monitor developments in England to explore whether best practice there can help update our own Jersey guidance.

Discrimination (Jersey) Law 2013 (DJL)

The Proposer advises us that:

“‘sex’ is a protected characteristic whereas ‘gender’ is not.”

Members are recommended to refer to Schedule 1 of the [Discrimination \(Jersey\) Law 2013](#) so they can be sure of all the protected characteristics enshrined in our legislation.

For ease they are listed below:

Race, Sex, Sexual Orientation, Gender Reassignment, Pregnancy and Maternity, Age and Disability.

Gender Reassignment is defined in the Law as per below:

Gender reassignment is a protected characteristic.

A person has the protected characteristic 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 gender by changing the person’s physiological or other attributes that are associated with a particular gender.

A person who has the protected characteristic is known as a transgender person and persons who share the characteristic are known as transgender people.

A person is a transgender person whether or not the person has or intends to have any medical intervention in order to change any attributes that are associated with a particular gender.

The Proposer is of course absolutely correct that gender is not a protected characteristic, and the Minister is confident he is also well aware that Gender Reassignment is.

Therefore, any person, who is proposing to undergo, is undergoing or has undergone a process for the purpose of reassigning their gender, whether or not they have had or intend to have any medical intervention in order to change gender attributes is, by definition in Jersey legislation, “transgender” and the holder of the protected characteristic."

The Minister fully supports schools in upholding the Discrimination Jersey Law and asserts that the current guidance does so and the proposed document from this proposition does not.

The Transgender Trend proposed document

At section 3.3 the document states that the term ‘transgender’ should not be used. This term is, however, explicitly used in the Discrimination (Jersey) Law (DJL) in reference to a person with the protected characteristic of ‘gender reassignment’. Any policy that would reject the use of the term ‘transgender’ in reference to a child with the protected characteristic of gender reassignment could be said to be incompatible with the spirit of the DJL.

The European Convention on Human Rights (the “ECHR”) forms part of Jersey’s domestic law. Article 8 ECHR, the right to private life, encompasses gender-identity. Article 14 ECHR is the anti-discrimination provision and prohibits discrimination against a person in the enjoyment of rights guaranteed under the ECHR. It is incompatible with the ECHR to interfere with a person’s Article 8 ECHR right, or to discriminate against a person in a way that engages their Article 8 ECHR right to private life, without justification.

Refusing to allow a transgender student to use a different name/pronoun or clothing choice in the identified gender on the basis of the rights and freedoms of others, as those name/clothing choice do not ostensibly interfere with the rights and freedoms of others. This aspect of the document may raise compatibility issues with Article 14 ECHR in practice.

The document references Article 10 of the Children and Young People (Jersey) Law 2022 as ‘*mandating engagement with parents in early help assessments to address complex needs holistically, ensuring safeguarding decisions are adult led and prioritize the child’s well-being*’. The Minister assumes this is an incorrect reference as Article 10 deals with the Responsible Ministers’ duty to publish a 4 yearly report. There is a duty to consult with parents when preparing well-being assessments (Article 20) but there is equally a requirement to consult with the child. The Minister cannot locate anywhere where the Law requires that safeguarding decisions are adult led, although

ultimately adults determine the extent to which a child's wishes and feelings can be accommodated in a safeguarding context.

The Cass Review

[The Cass Review](#) is an Independent Review of Gender Identity Services for Children and Young People which was commissioned by NHS England to make recommendations on the questions relating to the provision of these services as set out in the terms of reference.

The Review was cognisant of the broader cultural and societal debates relating to the rights of transgender people. It was not the role of the Review to take any position on the beliefs that underpin these debates. Rather, the Review was strictly focused on the clinical services provided to children and young people who seek help from the NHS to resolve their gender-related distress.

The Proposer purports that the Cass Review recommended "watchful waiting". The Minister has researched the Review thoroughly, the term "watchful waiting" only occurs 3 times in the Report, none of which are part of any recommendation. The proposition misinterprets "watchful waiting" as prohibiting all social transition. The Minister would welcome clarity from the Proposer on his claim of what the Cass Review "recommends".

Children's Rights

Members will have received a copy of a letter the Children's Commissioner for Jersey sent to the proposer on 9th February 2026. The Minister recommends that all Members read it thoroughly as an aid to this debate. The letter is copied in the Appendix below for ease.

In summary the Commissioner highlighted a range of issues with the proposition, the proposed document from Transgender Trend and the CRIA completed by the Proposer. The Commissioner recommended that the proposer should carry out a more thorough CRIA and amendments to the proposed document from Transgender Trend so it could more accurately reflect the Convention Rights.

The Proposer appears to have rejected the advice of the Commissioner and has decided to proceed without making any changes. The Minister prefers the Commissioner's expert assessment to that of the Proposer.

Safeguarding

Both the existing guidance and the proposition emphasise safeguarding but operationalise it differently. The existing guidance promotes case-by-case assessment, involvement of parents where safe, and non-medical support in school; the proposition urges a uniform 'watchful waiting' stance and rejects school-led social transition as an 'active intervention.'

Taken collectively, the Treating Children as Children proposition represents a narrow and sometimes inaccurate interpretation of each school's safeguarding duties as defined in Jersey's Keeping Children Safe in Education (J-KCSIE).

Examples of such inaccuracies include: where the proposition treats all disclosures of gender questioning as safeguarding concerns, and where it treats toilet use as a blanket safeguarding breach contrary to case-specific requirements, and how it characterises pronoun changes as undue influence contrary to wellbeing guidance.

While the proposition correctly emphasises the centrality of safeguarding and the importance of parental engagement, it diverges from safeguarding guidance in key areas by:

- Treating identity-based disclosures as safeguarding concerns
- Limiting or rejecting the role of the child's voice
- Preferring uniform restrictions over case-by-case assessment
- Under recognising the vulnerability of gender questioning children
- Misinterpreting multi-agency and contextual decision-making duties

As a result, the proposal does not fully reflect the child-centred, proportionate, flexible and inclusive safeguarding model mandated by J-KCSIE.

Amendment

The proposer has lodged an amendment which still requires the Minister to replace the existing Trans Inclusion Guidance with the proposed document, but now subject to any minor modification that the Minister may deem appropriate.

The Minister does not consider the document to be suitable for use in schools with only minor modifications. The document contains too many flaws and inaccuracies, and an evidenced lack of consideration of Children's Rights and the ECHR that make it unworkable without wholesale revision.

The Minister's current guidance remains fit for purpose and as detailed above will be subject to future review and with continual monitoring of developments in England to explore whether best practice there can help update our own Jersey guidance.

Summary

The evidence provided above clearly shows that this proposition and the proposed document both contain many flaws and inaccuracies.

Children's Rights have not been considered fully, instead it has been done selectively to suit the Proposers agenda. Evidently no assessment of the engagement of ECHR has taken place.

It does not align to, and contradicts, current safeguarding advice and best practice.

The proposition wrongly characterises the existing guidance as keeping parents out; in fact, the existing guidance urges working closely with parents by default, while recognising confidentiality and safeguarding exceptions.

While the proposer and his supporters say they recognise that some children will have gender dysphoria, they think it is acceptable to instruct all children not to use "wrong-sex pronouns" for either their fellow pupils or adults, a failure to recognise a protected characteristic in the DJL.

In contrast, the existing guidance's rationale offers inclusion, anti-bullying, and pastoral support on a case-by-case basis with a principle of watchful waiting.

Appendix



Deputy Sir Philip Bailhache
Morier House
Halkett Place
St. Helier
JE1 1DD

By Email: P.Bailhache@gov.je

9 February 2026

Dear Deputy Sir Philip Bailhache

Re: P.14/2026 'Treating Children as Children'

I am writing to you in respect of your recently lodged proposition [P.14/2026](#) 'Treating Children as Children' and the accompanying Children's Rights Impact Assessment ([CRIA](#)).

Having reviewed the proposition and the accompanying CRIA, the Office of the Children's Commissioner (OCCJ) has concerns about both the scope of rights deemed to be impacted and the interpretation of certain provisions of the United Nations Convention on the Rights of the Child (UNCRC). These concerns relate primarily to non-discrimination, participation, access to information and the framing of children's evolving capacities, as outlined below.

Framing of UNCRC Rights within the proposed guidance

The OCCJ has some concerns about the interpretation of UNCRC articles presented in the proposed guidance, particularly as articulated in paragraph 8:

"The United Nations Convention on the Rights of the Child (UNCRC) similarly prioritises child protection over adult-like autonomy, aligning with the treaty's core principles."

Before addressing the separate aspects of this paragraph in the proposed guidance, that, we are concerned with the above opening sentence. While the UNCRC places a strong emphasis on protection, it equally emphasises children's participation rights and the need to have respect for children's views, their evolving capacities and progressive autonomy. The UN Committee itself repeatedly stresses the importance of balance and that there is no hierarchy of rights when interpreting and applying the Convention.

Article 3 – Best Interests of the Child

The proposed guidance states that ‘Article 3 mandates that adults make decisions in the ‘best interests of the child,’ ensuring schools protect all children through a safeguarding lens.’

The UNCRC recognises the best interest of the child (Article 3) as one of its guiding principles. However, unlike the proposed guidance, the UN Committee is clear that best interest can only be served and attained through the consideration and balance of all children’s rights under the Convention. It places no obligation to apply what is referred to here as a ‘safeguarding lens’ as the overriding approach in making balanced decisions. As above, while the protection of children from identified harms is a consideration, Article 3 requires that equal attention is paid to children’s development and participatory rights. It cannot be singled out and achieved in the absence of measures to realise all other rights, as highlighted in the paragraphs below.

Article 5 – The Evolving Capacity of the Child

The proposed guidance states that Article 5 actively entrusts parents with the right and duty to guide their children, directing adults to set safeguarding policies in line with children’s ‘evolving capacities’ and rejecting child-led decision-making to maintain age-appropriate protections.

Article 5 relates to the evolving capacity of the child in the achievement of their rights and the support a child or young person should receive from their family, parents or carers to exercise increasing autonomy in relation to same. Article 5 requires that parents provide *appropriate* guidance and direction to children in the fulfilment of their rights and places an obligation on the State to uphold parents’ rights in this regard. However, in line with Article 2 (non-discrimination) of the Convention, the State also has a positive obligation to provide parents and carers with information and support to assist them in meeting their responsibilities in this regard. It should be clearly noted that the UN Committee on the Rights of the Child state that *‘parents’ responsibilities, rights and duties to guide their children is not absolute but, rather, delimited by children’s status as rights holders. The provision of direction and guidance by parents must be exercised in a manner to respect and ensure children’s rights.’*¹ Article 5 does not provide for the denial of any or all other children’s rights by parents, carers or the state.

The interpretation that ‘child-led decision making’ should be rejected is not in keeping with the UNCRC. Furthermore, when considering a rights-based approach to ensuring the best interests of the child as noted in paragraph 5 of the General Comment, use of wording such as ‘rejecting’ or ‘social contagion’ (which is used within the report accompanying the proposition) is not in keeping

¹<https://www.ohchr.org/sites/default/files/documents/hrbodies/crc/statements/CRC-Article-5-statement.pdf>

with this approach. This language is harmful and discriminatory to a child or young person who is questioning their gender identity or identifies as transgender.

Article 19 – The Protection of Children from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

The proposed guidance states that *Article 19 demands equal protection from all forms of harm.*

It is unclear from the proposed guidance exactly what form of harm to, or by whom, the invocation of Article 19 is referring to. We would welcome clarity on this issue and have concerns that a position may be taken and promoted that children questioning their gender identity or who identify as transgender are either automatically consider to be at harm from others or are a source of harm to others in the absence of rigorous evidence of same.

Article 36 - States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

The proposed guidance states that *Article 36 safeguards against ideological exploitation, supporting holistic, evidence-based approaches.*

It should be noted that Article 36 of the Convention makes no reference to ideological exploitation, although this may well be included underneath the breath of the Article. However, the OCCJ are unclear as to the definition and evidence of 'exploitation' employed here, including evidence of harm, such as coercion or the taking unfair advantage of children to the benefit of adults or other children. Clarity on this would be welcomed.

UNCRC Articles not assessed within the CRIA

Article 2 – Non-Discrimination

The OCCJ notes that the CRIA has indicated no impact in relation to Article 2 of the UNCRC (non-discrimination). The OCCJ is of the view that Article 2 should be addressed in this CRIA because changes to school guidance on supporting transgender and gender-questioning children have clear implications for non-discrimination. Article 2 requires that all children can access education, pastoral support and school life without discrimination of any kind, including discrimination relating to gender identity, as recognised by the UN Committee on the Rights of the Child. Any policy affecting a specific group of pupils must therefore be assessed for potential differential or adverse impact.

Article 12 – Respect for Children's Views

Article 12 of the UNCRC highlights the importance of ensuring that children have the right to give their opinions freely on issues that affect them and that adults should listen and take children seriously. Again, the OCCJ is of the view that Article 12 should also be acknowledged as a right engaged by your proposition. This is because revisions to transgender guidance directly affect the child's right to express their views and to have those views given due weight in decisions that concern them. Guidance on how schools respond to a child's expressed identity, preferences, and wellbeing directly shapes these participatory rights. A CRIA must, therefore, assess how the proposals uphold or restrict children's ability to be heard and involved in matters that significantly impact their daily experience and personal development. However, your proposition's CRIA records that no engagement was undertaken with children or young people. Given the direct impact of the proposed guidance, this absence of consultation represents a significant gap in compliance with Article 12. The assessment should consider how children's views will be incorporated before the guidance is finalised.

Article 17 – Access to Information

The OCCJ also draws your attention to Article 17 of the UNCRC, which protects a child's right to access information from diverse sources that support their '*social, spiritual and moral well-being and physical and mental health*'. The CRIA does not appear to consider this right. The proposed guidance references a limited set of resources that largely reflect a single perspective. The CRIA should examine whether the information framework provided meets the Convention's expectation of access to balanced and diverse sources.

Children and Young People (Jersey) Law 2022

The OCCJ notes that Article 10 of the Children and Young People (Jersey) Law 2022 (the 2022 Law) is cited as evidence to inform the CRIA. This Article of the 2022 Law relates to the reporting requirements on the responsible Ministers regarding the strategic plan for children and young people (as required under Article 7 of the 2022 Law). However, the OCCJ is unclear how this provision supports the proposed change in guidance and recommends that any reliance on the 2022 Law be explicitly connected to its overarching purpose of promoting wellbeing and safeguarding welfare. We would welcome any clarity that can be provided in this matter.

Recommendation

Given the short timeframe for lodging and debating proposals prior to election, the OCCJ respectfully recommends that this proposal is withdrawn until such time as a more thorough CRIA can be undertaken and the proposed guidance, suggested as part of the proposition, can be amended to accurately reflect the Convention rights.

Please note that we have provided a copy of this letter to the Minister for Education and Lifelong Learning, Deputy Rob Ward, as the Minister with direct responsibility for the guidance in question.

Should the proposition proceed, we will share our concerns, outlined above, with all States Members prior to the debate, in line with our statutory duty to advise States Members on children's rights.

I, and my officers, remain available to meet with you on this matter should you wish to.

Yours sincerely,



Dr Carmel Corrigan
Commissioner

Cc: Minister for Education and Lifelong Learning, Deputy Rob Ward