

Citizen Participation and Public Petitions Committee

4th Meeting, 2023 (Session 6), Wednesday 8
March 2023

PE1937: To give children the respect they
deserve by providing options for privacy when
changing for P.E.

Lodged on 17 May 2022

Petitioner Gillian Lamarra

**Petition
summary** Calling on the Scottish Parliament to urge the Scottish Government to
implement the option across all schools for primary school children to
wear their P.E kit to school on the days they have P.E.

Webpage <https://petitions.parliament.scot/petitions/PE1937>

Introduction

1. The Committee last considered this petition at its meeting on [28 September 2022](#). At that meeting, the Committee agreed to write to the Commissioner for Children and Young People and COSLA seeking their views on the issues raised in the petition.
2. The petition summary is included in **Annexe A** and the Official Report of the Committee's last consideration of this petition is at **Annexe B**.
3. The Committee has received new responses from the Commissioner for Children and Young People Scotland and COSLA which are set out in **Annexe C**.
4. Written submissions received prior to the Committee's last consideration can be found on the [petition's webpage](#).
5. Further background information about this petition can be found in the [SPICe briefing](#) for this petition.

6. The Scottish Government's initial position on this petition can be found on the [petition's webpage](#).

Action

The Committee is invited to consider what action it wishes to take.

Clerk to the Committee

Annexe A

PE1937: To give children the respect they deserve by providing options for privacy when changing for P.E

Petitioner

Gillian Lamarra

Date lodged

17 May 2022

Petition summary

Calling on the Scottish Parliament to urge the Scottish Government to implement the option across all schools for primary school children to wear their P.E kit to school on the days they have P.E.

Previous action

I have contacted Humza Yousaf who agreed the current policy is outdated. I have also raised this issue with the previous and current head of education at Glasgow City Council.

Background information

Some schools brought the option to wear P.E. kit to school into play during COVID but have since reverted back. A lot of primary schools make children undress to their underwear in-front of the rest of the (mixed gender) class, and teacher. Whilst they encourage self respect, privacy and being aware of your body? Such a contradiction.

My family member had met their teacher once after going back to school after covid. They were asked to strip down to their underwear in order to participate in P.E. I teach them about privacy and being aware of THEIR body. My family member refused to do this for obvious reasons and was told that 'all the kids can't just go to the toilet to change'. I contacted my family member's school who agreed and changed their policy.

From there I put a message of concern on social media, the response I received was phenomenal and from that point I knew there needed to be change.

Annexe B

Extract from Official Report of last consideration of PE1937 on 28st September 2022

The Convener: PE1937, which has been lodged by Gillian Lamarra, is entitled “To give children the respect they deserve by providing options for privacy when changing for P.E.” It is an important issue. The petition calls on the Scottish Parliament to urge the Scottish Government to implement the option across all schools for primary school children to wear their PE kit to school on the days they have PE.

The petitioner considers that these protections are necessary to ensure children’s privacy and tells us that, while Covid-19 restrictions were in place, some schools brought in the option of children wearing their PE kit to school. However, since the pandemic restrictions have been lifted, schools have allegedly taken that option away, which means that primary school pupils have to get changed for PE in front of their teacher and their classmates in mixed-gender classes.

The Scottish Government’s response indicates that

“policy decisions on school clothing ... are best taken by schools and education authorities”.

It also highlights the

“statutory responsibility on all local authorities to manage and maintain their school estate”

and the expectation that local authorities will

“provide appropriate changing facilities”.

We have received a submission from the petitioner in response to the Scottish Government, which highlights the fact that some schools do not have appropriate facilities for pupils to get changed in. It also raises concerns about the onus being put on parents to contact the teachers to resolve the issue, rather than the relevant authorities ensuring that appropriate changing facilities or alternative options are provided. Do members have any comments?

David Torrance: Can we write to the petitioner, asking her to share her views in response to the Scottish Government’s consultation on school uniform, which is open until 14 October?

The Convener: There is certainly an opportunity to do that.

David Torrance: The committee could also write to the Children and Young People's Commissioner Scotland, asking for his views on the petition. However, most important for the committee, we could write to COSLA, asking for information on guidance and best practice in schools on the issue.

The Convener: I am content to do all of that. Are members content?

Members *indicated agreement.*

The Convener: Does anyone have any other thoughts? I wonder whether we might, in seeking advice, try to establish whether COSLA is aware of any widespread public concern about the issue. I am not clear about how widespread any concern might be.

I thank the petitioner. We will keep the petition open and will revert when we have that information.

Annexe C

Children and Young People's Commissioner Scotland submission of 1 November 2022

PE1937/C: To give children the respect they deserve by providing options for privacy when changing for P.E.

Introduction

We welcome the opportunity to respond to the above petition. In line with our response to the Scottish Government's Statutory School Uniform Guidance, we are of the view that primary schools should adopt a flexible approach to policies on changing for P.E. classes. These policies should be developed with the active participation of children, with the intention of realising children's human rights, including the right to an education and the right to privacy, and with consideration for their comfort and their wellbeing.

Human Rights Background

The UN Convention on the Rights of the Child (UNCRC) outlines children's right to an education in Articles 28 and 29 and the right to an education is also enshrined in Article 2 of the First Protocol to the European Convention on Human Rights (ECHR).

Article 28 places a number of duties on States Parties, who not only have a duty to guarantee every child's right to an education but also to do so in a way which does not discriminate against any child (Article 2 UNCRC and Article 14 ECHR) and which does not create unreasonable barriers to that education. Article 29 provides an outline of what that education should look like: it should be directed to the development of the child's personality, talents and mental and physical abilities to their fullest potential; it should develop respect for human rights and fundamental freedoms; and should prepare the child for responsible life in a free society, in a spirit of understanding, peace, tolerance, equality of the sexes and friendship amongst all peoples, ethnic national and religious groups.

Children's right to participate in decisions which are made about them (Article 12 UNCRC), to non-discrimination (Article 2) and for decisions to

be made in their best interests (Article 3 UNCRC) are engaged when policies relating to P.E. kits and changing practices are developed. Such policies may also affect other rights, including the right to play and recreation (Article 31 UNCRC), the right to health (Article 24 UNCRC), the right to religious and other beliefs (Article 14 UNCRC), the rights of children who are part of a linguistic or cultural minority group (Article 30 UNCRC) and to freedom of expression (Article 13 UNCRC). The rights of disabled children under the UN Convention on the Rights of People with Disability and the rights of girls under the UN Convention on the Elimination of Discrimination Against Women are also engaged.

Children also have a right to physical privacy under both the UNCRC (Article 16) and the ECHR (Article 8). School policies relating to P.E. kits and changing practices must therefore respect children's rights to privacy and dignity, taking into account the needs of all children, including those with disabilities and those from different religions, beliefs and cultural backgrounds.

Our view

The SPICe briefing accompanying the petition notes that there is no current national legislation around safe P.E. changing practices in primary schools; it is up to individual local authorities and schools to write their own guidelines.¹

We are aware of concerns raised by children and their families regarding P.E. changing practices in primary schools. These concerns relate not only to issues around privacy when changing for P.E. class, but also to wider concerns around the adequacy and suitability of changing facilities in the school estate.

There are long-standing concerns regarding other parts of the learning estate, particularly school toilets. Many of the issues that affect the suitability of changing and toilet facilities, such as issues linked to safety and privacy, are linked. Our office's research found that many pupils avoid using toilets at schools because they do not feel safe in them, or because they are not private enough.² We continue to hear these concerns expressed by school pupils on a regular basis.

¹ SPICe Briefing for the Citizen Participation and Public Petitions Committee on petition PE1937. Available here: <https://www.parliament.scot/-/media/files/committees/citizen-participation-and-public-petitions-committee/spice-briefing-for-petition-pe1937.pdf>

² In September 2013, the former Commissioner for Children and Young People Tam Baillie launched the *Flushed with Success: Setting the Standard for Scotland's School Toilets* campaign. Press release available here: <https://cypcs.org.uk/wp-content/uploads/2020/02/Flushed-with-Success-release.pdf>. See also *Toilets Unblocked: A literature review of school toilets*, published

The absence of any national guidance relating to P.E. changing practices has resulted in inconsistency in approach across primary schools and local authorities in Scotland. In this regard, the petition highlights that some primary schools have retained rules permitting children to wear their P.E. kit to school on the days they have P.E. (as recommended under COVID-19 guidance for Physical Education), while other schools have returned to pre-pandemic positions.

Different P.E. changing practices between primary schools may be justified with reference to the needs and views of pupils in particular schools, including children with disabilities and those from different religions, beliefs and cultural backgrounds. The Scottish Government should however explore whether national guidance is required to create some degree of consistency and to ensure that P.E. changing practices are rights-respecting and are developed in partnership with children and young people.

The Scottish Government has committed to schools delivering at least two hours of P.E. for all pupils in primary school.³ Changing time reduces the amount of available time children have for physical activity. Permitting children to wear their P.E. kit to school on days they have P.E. would promote children's health and wellbeing by maximising the time available for physical activity.

Finally, the Scottish Government, as part of its Learning Estate Strategy, must ensure that all schools have adequate and suitable changing facilities, which respect the rights and needs of children and young people. In order to promote inclusion and having regard to the requirement to comply with duties under the Equality Act 2010,⁴ facilities should be sensitive to the needs of all children, including those with disabilities and different religions, beliefs and cultural backgrounds. We consider that the Scottish Government should review and update their Learning Estate Strategy to ensure that children's rights are

September 2013. Available here: <https://www.cypcs.org.uk/resources/toilets-unblocked-a-literature-review-of-school-toilets/>

³ Scottish Government Website, Health and Wellbeing in Schools. Available here: <https://www.gov.scot/policies/schools/wellbeing-in-schools/>

⁴ Scottish public authorities (including the Scottish Ministers) are required to comply with the public sector equality duty (or general duty) set out in [Section 149](#) of the Equality Act 2010. This general duty requires Scottish public authorities to have 'due regard' to the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations. In 2012 Scottish Ministers made regulations that placed specific duties on listed Scottish public authorities (including Education Scotland, and all education authorities) to help them meet the general duty. These are also known as [the Scottish Specific Duties](#). Regulation 5 places a duty on listed Scottish public authorities to assess the impact of applying a proposed new or revised policy or practice against the public sector equality duty.

mainstreamed into decision making relating to suitability and condition of learning environments.

COSLA submission of 27 October 2022

PE1937/D: To give children the respect they deserve by providing options for privacy when changing for P.E.

COSLA is the voice of Local Government in Scotland. We are a cross-party organisation which champions councils' vital work to secure the resources and powers they need. We work on councils' behalf to focus on the challenges and opportunities they face, and to engage positively with governments and others on policy, funding and legislation. We welcome the opportunity to respond to this petition.

Supporting children and young people of all backgrounds to engage fully in their education is a priority and key commitment of Local Government. This includes ensuring all children can engage in and benefit from physical education and activity. Local Government also supports the incorporation of the UNCRC, sharing the vision of a Scotland where children's human rights are embedded in all aspects of society and public services, including education. Extensive work is underway across councils and schools to take forward this commitment, with extensive progress being made in a challenging landscape. Against this background, we recognise the crucial importance of ensuring that children and young people are treated with dignity and respect, and that their right to privacy is fulfilled, including in all educational contexts.

Local Government believes that it would not be appropriate for the important matters raised in this petition to be subject to national-level policy or guidance. Rather, the design and delivery of policy around the wearing of P.E. kits and options for changing sits most appropriately at the school level. School staff, including school leaders and teachers, are best-placed to understand the unique needs, context and circumstances of their school community, and design approaches which reflect and meet these needs. It is our view that where children or parents/ carers have concerns around these issues, these should be raised directly with

school staff who will be in the best position to consider appropriate responses.

We believe that such an approach aligns with the important principles of flexibility within Scottish education, which allow schools and local authorities to design and deliver services to meet the needs of their communities, as reflected within the school empowerment agenda.

We hope that this information is helpful to the Committee in their consideration of this petition.