



PR Briefing: CPS Legal Challenge

Date: 27 April 2020

Campaigners who fear that schoolchildren will be intimidated and criminalised by new 'hate crime' guidance are supporting a teenage girl who is taking legal action against the agency issuing it – the government's own Crown Prosecution Service [CPS].

The action, demanding a judicial review, is being led by a 14-year-old girl who is afraid that the 'LGBT+ hate crime guidance' for schools will seek to police her 'personal thoughts', and force her into forming friendships.

The guidance, issued in January 2020, has a focus on 'transphobia' which it defines as: 'Discrimination against and/or dislike of trans-people (including those perceived to be trans). This also includes the perpetuation of negative myths and stereotypes through jokes and/or through personal negative thoughts about trans-people. This can take the form of persistently and consciously misnaming a person, as well as attacking them verbally or physically.'

The teenager is seeking an application for a judicial review and is challenging the guidance on a number of grounds:

- It contains legal errors relating to the Equality Act 2010.
- It misrepresents the law relating to Gender Reassignment, Single Sex Toilet Facilities and Prosecution of Hate Incidents
- It had no input from organisations with specialist knowledge of child welfare.
- It seeks to indoctrinate children.
- It seeks to suppress Free Speech
- It seeks to suppress Freedom of Association

She is being supported by two groups:

- Safe Schools Alliance UK¹, a group of parents, teachers and other professionals focused on working with schools and educators to ensure that school policies meet the safeguarding needs of all students, whilst taking into account the protected characteristics of the Equality Act 2010.
- Fair Cop², an organisation dedicated to upholding human rights in relation to free speech and challenging the illegal overreach of police forces and other

1 <https://safeschoolsallianceuk.org>

2 <https://www.faircop.org.uk>

authorities. In February this year, Fair Cop's co-founder, Harry Miller, succeeded in his judicial review against Humberside Constabulary, whose chilling attempt at enforcing a political ideology was likened to the Cheka, Stasi and Gestapo. The ongoing case against The College of Policing has been lodged at The Supreme Court³

In a joint statement issued on the Crowdfjustice⁴ page set up to support the claimant, the groups said.

"We find it incredibly disturbing that this guidance seeks to control the 'personal thoughts' of children, we cannot see how insinuating to children that they could be criminalised for their 'thoughts' is conducive to good mental health. Attempting to control the thoughts of anybody, especially children is Orwellian and has no place at all in a democracy, particularly not in a school."

"The guidance will effectively mean the Police and CPS are monitoring our classrooms and encouraging school children and teachers to report each other for disagreeing with transgender ideology. The guidance poses a safeguarding risk because students will feel intimidated under threat of prosecution to ignore their own personal and sexual boundaries, and will be forced into situations which make them feel uncomfortable or unsafe."

The teenage girl who is pursuing the claim said:

"I feel that if I don't like someone, and don't want to hang out with them, I shouldn't feel I was forced to in any way. Being made to hang out with someone you don't like won't make you like them sincerely. I feel my own mental health would suffer."

"Girls should not have to stay silent when they are uncomfortable with males in their toilets. This is supposed to be anti-bullying guidance but I feel intimidated that I would have to stay silent. That's not anti-bullying; not for girls."

"It's not bullying to stand up for your rights. I have a right to a female only space where I feel comfortable changing my period things without being worried about judgement. I actually feel bullied by being told I am breaking the law by saying no."

This case is built on the premise that schools must not be encouraged to facilitate the intimidation and criminalisation of children for protecting their own boundaries and stating simple biological facts.

1] Notes to editors:

On 21st January 2020 the Crown Prosecution Service (CPS) released guidance called "LGBT+ hate crime guidance" for schools⁵. This guidance is designed to educate students about what hate crimes and hate incidents towards LGBT+ people look like, how they are

3 <https://www.judiciary.uk/judgments/miller-v-college-of-policing/>

4 <https://www.crowdfjustice.com/case/challenge-cps-schools-guidance/>

5 <https://www.cps.gov.uk/sites/default/files/documents/publications/CPS-LGBT-Hate-Crime-schools-pack-December-2019-IF.pdf>

dealt with, and the potential legal sanctions they might incur. It is aimed at KS3 and KS4, which ranges from ages 11-16. There is a particular focus on 'transphobia'.

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