

P-06-1560 Reinstate single sex toilet provision in educational settings

Y Pwyllgor Deisebau | 2 Mawrth 2026
Petitions Committee | 2 March 2026

Reference: RS26/13165

Introduction

Petition Number: [P-06-1560](#)

Petition title: Reinstate single sex toilet provision in educational settings

Text of petition: By law all schools are legally required to provide separate toilet facilities for boys and girls. However this hasn't been followed with many schools changing facilities to communal mixed sex spaces. After the recent Supreme Court clarification that sex is biological these single sex spaces need to be reinstated & the law upheld.

The Welsh government School toilets: Good practice guidance for schools in Wales in 2012 stated that regulations require separate toilet areas for male & female learners.

<https://www.gov.wales/sites/default/files/publications/2018-03/school-toilets-good-practice-guidance-for-schools-in-wales.pdf>

However schools have been allowed to ignore the law and replace them with mixed sex communal toilets. Children have been "holding" & avoiding using the mixed sex toilets. Avoiding school altogether especially girls who are



menstruating. And not drinking to avoid going to the toilet, leading to health issues like bladder infections.

<https://www.walesonline.co.uk/news/education/pupils-missing-school-because-dont-15839558.amp>

Research: "Mixed sex toilets in Wales' schools – breaking the law" - 2024.

<https://merchedcymru.wales/2024/01/24/mixed-sex-toilets-in-wales-schools-breaking-the-law/>

The text provided above is submitted by the petitioner. The petitions team make every effort to ensure it preserves their authentic voice. This text has not been verified for accuracy, or errors, and may contain unverified opinions or assertions.

1. Toilet facilities schools must provide

Part 2 of the [Education \(School Premises\) Regulations 1999](#) relates to 'school facilities. Regulation 3 sets out requirements relating to 'washrooms for pupils', saying that 'in every school there shall be facilities [...] which are adequate having regard to the ages, sex and numbers of the pupils and any relevant special requirements they may have'.

Referring to washroom facilities these regulations say that, except as provided in [regulation 4\(3\)](#) (for the needs of persons using the premises who are disabled), "washrooms for male and female pupils who have attained the age of 8 years shall be separate."

The current position can be summarised that:

- Unisex toilets can be provided in schools as the only washroom facility for children under eight years of age.
- Whilst unisex toilets can be provided, separate toilets must be available for male and female pupils aged eight and above.

This is confirmed by the Cabinet Secretary for Education in her response to this Petition, where she says:

I would like to clarify that in Wales, schools are legally required to provide separate single-sex washrooms for boys and girls aged eight and over, as stated in The Education (School Premises) Regulations 1999. Local authorities, diocesan authorities, schools and governing bodies must ensure compliance with the legislation governing the provision and design of toilets. [Bold my emphasis]

1.1. Existing School Toilets guidance

In 2012 Welsh Government issued [School toilets good practice guidance for schools in Wales](#). It says:

The regulations also require toilet areas for male and female learners over the age of eight to be separate. Girls' toilets should not have urinals. Staff toilets, other than those designed for disabled access, must be separate from learners' toilets.

It goes on to say:

The regulations and the non-statutory guidance offered by the Welsh Office Circular 15/99 are aimed at local authorities (LAs) and set out matters such as the number of toilets required in a school dependent on the age and number of learners; the separation and location of facilities depending on age and gender of learners; and the dimensions of facilities within school toilets.

In answer to a [written question in 2023](#), the Welsh Government said:

The Education (School Premises) Regulations 1999 specify separate washrooms for male and female pupils over the age of 8. Gender-neutral toilets can be provided alongside single-sex toilets.

The provision and design of toilets, changing rooms and washing facilities for pupils is a matter for the school and local authority. The Welsh Government provides advice for governing bodies and head teachers on the facilities required: [school toilets good practice guidance](#).

Schools conducting a school-based consultation with learners will help ensure the needs of all pupils are met within new buildings and in making any changes to provision.

This [UK Government draft guidance on 'keeping children safe in schools'](#) in England was published for consultation on 12 February 2026. Paragraph 106 of the draft guidance says:

Schools must provide separate toilets for boys and girls aged 8 and over (apart from where individual toilets are in a room that can be locked from the inside, intended for use by one pupil at a time.

Paragraphs 108-111 provide additional information.

1.2. Expected revised anti-bullying guidance

In her paper in response to this Petition the Cabinet Secretary refers to:

The 2025 consultation on the Rights, respect, equality anti-bullying guidance asked "To what extent do you agree that the Education (School Premises) Regulations 1999 should be amended to make clear that schools may provide gender-neutral toilets in addition to sex-separated toilets?". Responses

to the consultation were analysed and published on the [Welsh Government website](#). The final version of the Rights, respect, equality anti-bullying guidance will be published before the end of this term of government.

The outcome for consultation on the revised [Rights, Respect, Equality Anti-bullying guidance](#), published in July 2025, included several references to school toilets.

In it, 64% of respondents strongly agreed when asked “To what extent do you agree that the Education (School Premises) Regulations 1999 should be amended to make clear that schools may provide gender-neutral toilets in addition to sex-separated toilets?”. The consultation outcomes document notes that ‘views tended to be polarised’ on this question. Only 9% of respondents thought all toilets should be gender neutral.

1.3. Other forthcoming guidance

In a January 2026 update to the [LGBTQ+ Action Plan for Wales: progress update 2024 to 2025](#), Welsh Government provided an update on the action to Provide national trans guidance for schools and local authorities. They say

“Work is underway to engage with a wider range of parents to ensure their priorities are fully considered in the draft guidance. Officials are working to ensure the guidance is ready for a new Government in May 2026 and will be in a position to confirm that it is the result of comprehensive engagement and fully up to date with the latest legal position and the finalised Equality and Human Rights Commission (EHRC) Code of Practice”.

2. Equality legislation

Part 6 of the [Equality Act 2010](#) (“the Act”) relates to education and applies to all local authority maintained schools and independent schools. Section 85 relates to the treatment of pupils. It says that “the responsible body of such a school must not discriminate against a pupil” including amongst other things:

- in the way it affords the pupil access to a benefit, facility or service;
- by not affording the pupil access to a benefit, facility or service.

Section 85 (6) refers to the fact that “a duty to make reasonable adjustments applies to the responsible body of such a school.”

Implications of a Supreme Court ruling for schools

In April 2025, the UK [Supreme Court judgment on the meaning of "sex" in the Equality Act 2010](#) ruled that references to "sex", "man" and "woman" in the Act refer to biological sex (a person's sex at birth).

This judgment has implications for schools, including how schools manage access to single-sex spaces. Access must now be based on **biological sex**, not gender identity.

The Equality and Human Rights Commission (EHRC) website states that it has consulted twice on [Code of practice for services, public functions and associations](#) during 2025. First prior to the Supreme Court judgement and a second consultation following the judgement. The second [Code of consultation 2025: changes to chapter 13](#) includes a section on separate and single-sex services, which includes examples relating to the provision of toilets. These do not include reference to provision in schools.

In the interim period between the two consultations, the EHRC website had a section [UK Supreme Court ruling on the meaning of sex in the Equality Act: our work.](#), which included an 'interim update' from April 2025 which said:

Schools in England and Wales must provide separate single-sex toilets for boys and girls over the age of 8. It is also compulsory for them to provide single-sex changing facilities for boys and girls over the age of 11. [...] Pupils who identify as trans girls (biological boys) should not be permitted to use the girls' toilet or changing facilities, and pupils who identify as trans boys (biological girls) should not be permitted to use the boys' toilet or changing facilities. Suitable alternative provisions may be required.

It went on to say:

The consultation on proposed changes to our code of practice for services, public functions and associations (Code of Practice), resulting from the UK Supreme Court judgment, closed on 30 June 2025. We are reviewing the consultation responses received and will produce a revised Code of Practice in due course.

This text has since been removed to refer to the closure of the second consultation on the code of practice and [currently states](#):

The draft code was submitted to the Minister for Women and Equalities for approval on 4 September 2025. The next stage is for a draft code, as approved by her, to be laid before Parliament.

On 15 October 2025, we wrote to the Minister to ask for:

- an update on that process*
- the revocation of the 2011 version of the code, as it is now out of date in various respects*

Welsh Government's position on the Supreme Court ruling

Following the ruling and in Plenary in May 2025, the Counsel General responded to a question which included reference to gender neutral toilets in school and whether Welsh Government would provide further guidance to schools “to ensure that these gender-neutral spaces are removed?”. The Counsel General referred to the Supreme Court Judgement and said:

All they're doing is pointing out that, for the purposes of single-sex spaces, the biological sex matters. But the removal of gender-neutral spaces is not specified, and we will not be looking at it.

In a response to a response to a Freedom of Information request, published in July 2025, Welsh Government responded to the question:

Please indicate whether, in practice, trans girls aged eight and over may use facilities designated “girls”

Welsh Government responded:

*The consultation on the updated guidance anti-bullying guidance, Rights, Respect, Equality, includes questions relating to amendments to the Education (School Premises) Regulations 1999 (“the 1999 Regulations”). **We propose to make very limited amendments to the 1999 Regulations so that schools are allowed (but not required) to provide gender neutral toilets.** This is alongside the existing requirement for schools to provide sex separate toilets for learners aged 8 and above. This maintains the requirement to provide single sex toilets and alongside this gives flexibility for schools to provide a range of toilet provision that will help ensure all learners are safe and comfortable using a toilet in school.*

- *The Education (School Premises) Regulations currently specify separate washrooms for male and female pupils over the age of 8.*
- *The provision and design of toilets, changing rooms and washing facilities for pupils is a matter for the school and local authority.*
- *All children and young people need access to a school toilet that they comfortable to use.*
- *Many schools in Wales make gender neutral toilets available to learners for a range of reasons.*

This can include to address behaviours that can impact health and wellbeing, for example, bullying or smoking. This flexibility of choice means that learners who do not feel comfortable in sex separate toilets are provided with a toilet that they able to use. This can be provided as a choice open to all learners. This provision can be particularly beneficial for learners who are trans, non-binary or gender questioning. [Bold our emphasis].

This briefing has already outlined that in the Cabinet Secretary's written response to this Petition, Lynne Neagle MS says that the updated anti-bullying guidance, Rights, Respect, Equality "will be published before the end of this term of government".

On 22 October 2025 Jane Hutt, Chief Whip had already referred to the consultation on the EHRC code of practice for public bodies in Plenary, saying:

The Minister for Women and Equalities and the Secretary of State for Education wrote to me on 12 October. Under section 14 of the Equality Act, the Secretary of State is required to consult Welsh Ministers before approving a draft code of practice. The code of practice will update requirements for compliance within public functions and services. So, that's an important update for the Member bringing this debate, and for the Chamber today. We received the draft code on 16 October and will provide the appropriate response to the UK Government's request.

On 2 Feb 2026, the UK Government said it was still reviewing the Code of Guidance.

Also, on the 2 February he UK Government was asked:

To ask His Majesty's Government whether they responded to the Equality and Human Rights Commission's Code of Practice

for Services, Public Functions and Associations after consultation with the Scottish and Welsh Governments; whether they responded on 30 June 2025; and if not, on which date they responded.

Baroness Smith of Malvern responded:

Consultation with Welsh and Scottish Ministers is required if, or in so far as, the Code relates to a duty imposed by or under the Public Sector Equality Duty. As part of the consultation, the draft Code has been shared with the Devolved Administrations.

Further updates on the discussion of the Supreme Court Judgement in the Senedd this are provided in Section 5 of this brief.

3. Other reports

- Merched Cymru (Women of Wales) describes itself as ‘a grassroots group of ordinary women from across Wales who are working to protect and strengthen the sex-based rights of women and girls’. Its report ‘Mixed sex toilets in Wales’ schools’ is referenced in this petition.
- Page 18 of this document: Sex and gender identity: keep your pupils safe and comply with the law – for schools in Wales refers to changing facilities. It has been produced by a campaigning organisation called Sex Matters and is not an official document.

4. School complaints

The Welsh Government’s School complaints procedures: guidance requires each school to establish and publish a procedure for dealing with complaints about the school, or about any facilities or services the governing body provides for the benefit of pupils, their families, or people who live or work in the school locality. Complaints can be made by parents/carers, pupils, members of staff, members of the local community, governors, or any other person with an interest in the school, in line with the guidance.

5. Senedd scrutiny

There has been no specific committee scrutiny on the issue of the provision or arrangements for school toilets rooms. A 2022 report by the Children, Young People and Education Committee (CYPE) may contain relevant themes: [Peer on peer sexual harassment among learners](#). It looked at a wide range of issues but did not refer specifically to facilities. It refers to the Estyn 2021 report of [We don't tell our teachers - Experiences of peer-on-peer sexual harassment among secondary school pupils in Wales](#). Again, this looks at wider issues and does not mention facilities.

In Plenary, the following questions have been asked recently:

- In October 2025, Altaf Hussain MS [asked the](#) Cabinet Secretary for Social Justice, Trefnydd and Chief Whip would the Welsh Government “now commit to issuing guidance to all public bodies in Wales, making it clear that single-sex spaces cannot be used by members of the opposite sex, regardless of whether they hold a GRC?”
- Also in October 2025, Laura Ann Jones MS [raised the issue of school toilets](#) saying “give schools proper guidance. Children should not be caught in an ideological crossfire. They should be taught facts. Schools must provide separate toilets and changing rooms for boys and girls, as the law requires, and loos for everyone.”
- On 11 February 2026, Natahsa Asghar MS [asked about](#) the latest position on Welsh Government’s response to the Supreme Court Judgement. The Cabinet Secretary for Social Justice, Trefnydd and Chief Whip said:

I did meet with the new UK chair of the Equality and Human Rights Commission, Dr Mary-Ann Stephenson, to discuss a number of issues, including the implications of the Supreme Court judgment and the forthcoming EHRC code of practice. So, I think that may reassure you, that I met with her. And I said again, as I've said before, that I am clear that the Welsh Government will comply fully with the code of practice once issued.

Every effort is made to ensure that the information contained in this briefing is correct at the time of publication. Readers should be aware that these briefings are not necessarily updated or amended to reflect subsequent changes.