Rights, respect, equality anti-bullying guidance

Consultation response form

Your name: Beth Price

Organisation (if applicable): Merched Cymru

email/telephone number: education@merchedcymru.wales

Your address: Wales-wide grassroots feminist organisation

Responses should be returned by 31 July 2025 to:

Wellbeing and Safeguarding in Schools
Equity in Education Division
The Education Directorate
Welsh Government
Cathays Park
Cardiff
CF10 3NQ

or completed electronically and sent to:

email: rightsrespectequalityguidanceconsultation@gov.wales

Question 1 – Does the draft Rights, respect, equality anti-bullying guidance provide suitable useful, practical information for leaders, teachers and other practitioners in schools, pupil referral units and education otherwise than at school settings to inform approaches to preventing and responding to all forms of bullying?

Yes	☐	No	✓	Don't know	☐

Supporting comments

We do not believe that the draft statutory guidance is of a suitable standard to provide useful information for schools and other relevant parties working to prevent and respond to bullying behaviour in schools and other settings. This is because:

(a) The structure of the document is not user friendly, especially for the range of people described as the audience for the guidance on page 2.

(b) There is a conflation of 'sex', 'gender' and 'gender identity' throughout the document making it hard to distinguish between the different characteristics or concepts and impossible to address sexism, sexual harassment and misogyny in an effective way. This is astounding giving current concerns about the rise in such behaviour and the influence of pornography and 'the manosphere' on boys and young men. It also increases the likelihood of inaccurate recording of the type of bullying, which will often be difficult for schools to assess.

(c) There is a preoccupation with the characteristics of children who experience bullying behaviour towards them, reinforcing the assumption that there is something about the target of the bullying behaviour which invites being targeted. Since the list of characteristics is not exhaustive there are inevitable gaps (e.g. linguistic background, musical taste, membership of social group, consequences of child poverty or neglect, family structure). A different approach would avoid omissions.

(d) There are excessive references to other guidance, legislation and resources – many of which are out of date or inapproprate – which is frustrating for anyone seeking reliable comprehensive guidance which should bring all the relevant information together coherently. Some of the resources advocate an approach which is not aligned to the Equality Act 2010 (as clarified by the For Women Scotland v Scottish Ministers Supreme Court judgment) and ignores the recommendations of the Cass Report. There are similar issues with some of the Welsh Government policies and resources linked since there has been no audit, withdrawal and updating of those policies in response to the judgment.

(e) The definitions in the intitial glossary are ideologically-loaded and in several cases opaque (e.g. the definition of transphobia and the introduction to "What bullying is"), incomplete (e.g. the definition of sex), misleading or legally inaccurate (e.g. the definition of a hate crime, which is an error repeated throughout the

document undermining the advice).

Question 2 – Does the Rights, respect, equality anti-bullying guidance clearly set out the legal responsibility of the school and governors?

Yes	☐	No	✓	Don't know	☐

Supporting comments

This section on the face of it sets out the responsibilities of school governors' quite clearly, but the link between this and the remainder of the document isn't explained in a meaningful way. This needs to be made much clearer and an improved structure and format for the guidance should set out who is responsible alongside information about the relevant legislation. This is very important for schools and governors who are following the guidance as it stands at present since it is legally inaccurate and may lead to action from parents on behalf of their child. They need to know that they will be held responsible for not complying with the law, or whether, alternatively, Welsh Government and/or the Local Education Authority will be accepting legal responsibility given that it is the government's statutory guidance. Clearly, the best solution would be for Welsh Government to have full legal check of the draft guidance to ensure that their **statutory** guidance is accurate and legally compliant. That is far more important than having narrative background information about bullying as the primary focus of the document. Welsh Government should not be relying on third sector groups to provide an interpretation of the law or a one-sided, culturally biased definition of terminology. Part of due diligence is ensuring legal accuracy, and until all relevant policies have been reviewed and updated to comply with the most recent legal context, that is impossible to achieve.

Question 3 – Does the Rights, respect, equality anti-bullying guidance clearly set out the responsibilities of the local authority?

Yes	☐	No	✓	Don't know	☐

Supporting comments

Please also see our response to the above question. The respective responsibilities need to be set out clearly at the start of the document,

alongside practical guidance that will be of use to schools and local authorities. An overly long, dense document such as this will not be used by busy teachers and school managers because the key information is lost among excessively long background information. Schools and teachers know what bullying is and about the dynamics of a school community. Concise accurate definitions are helpful, but meaningless decontextualised statistics and explanation only creates additional 'noise' making it hard for any of the target audience for this statutory guidance to obtain actual guidance that is of practical use. Under such circumstances schools often turn to policies and strategies advertised to them by external agencies who claim their product aligns with Welsh Government guidance whether it does or not. This has caused difficulties for schools in the past. It is reasonable that they should expect clarity and accuracy in guidance that is statutory.

The final version of this document should be the definitive guidance that schools and local authorities need.

Question 4 – Does the Rights, respect equality anti-bullying guidance connect properly with broader policy areas and guidance on separate but related topics?

Yes	☐	No	☐	Don't know	☐

If not, are there links with related areas that are not made in the guidance which should be made?

Several of the links made within the draft document are to policies or guidance which are over two years old and where the legal position has been clarified or where extensive research and inquiry has concluded that best practice in the care of gender-questioning young people is not as suggested in the Welsh Government's policy at that time. Even the Estyn thematic review report dates from 2021 and is heavily reliant on discredited research. The systematic review of research on social transition carried out as part of the Cass Review did not find evidence to support claims that social transition or an affirmation of the transgender identity of a gender questioning child or young person is beneficial. Baroness Cass urged caution and recommended a more holistic approach which is now being adopted by NHS England (who provide the service on behalf of NHS Wales). The document appears to disregard this fact and is written as if schools should be making clinical judgements about a child's sex or gender, or accepting self-diagnosis in a way that interferes with a young person's psychological development and well-being. This puts the statutory guidance at odds with current NHS practice and puts schools at risk of legal action if they continue to use, for example, the approach outlined in the LGBTQ+ Action Plan. The results could also be disastrous for young people.

It is also clear from exploring some of the resources linked to that there has been no quality control or vetting of those resources. One example is the **School and community-based counselling operating toolkit** which directs schools to apply the extraordinary 10 Tips For Working With Trans Students by Sam Hope, which, among other things, suggests that schools "rethink safeguarding". It suggests schools treat children and young people with a trans identity in an entirely different way to other learners. This is a safeguarding risk to the individual child and to his or her peers.

Schools should not be encouraged to set aside normal risk assessment and safeguarding protocols, or to assume that a person with a trans identity (or any other protected characteristic for that matter) can only be a target of bullying. Possession of a protected characteristic is not a reason to disregard best practice or to pretend that even those who may be vulnerable to discrimination or harassment cannot be responsible for damaging behaviour themselves. Some young people may feel that a way to compensate for a feeling of a lack of autonomy or power is to use complaints of bullying or formal systems to do that. Schools should be aware that their anti-bullying policies and procedures must be fair and equitable with no impressions given of some individuals or groups having more privilege because any alleged bullying behaviour by others against them will be taken more seriously.

We strongly suggest that Welsh Government completes a full audit of relevant policies to ensure that all are compliant with the For Women Scotland v Scottish Ministers Supreme Court judgment and alignment with the recommendations of the Cass Review before publishing the final guidance. Any policies that do not comply should be withdrawn and updated. Only then would it be appropriate for them to be linked to in statutory guidance. The current draft is less helpful for schools than no guidance at all, and it is surprising that Welsh Ministers are unaware of that fact.

School governing bodies and Local Authorities doing due diligence on their own policies will have to take note of the Cass Review and the Supreme Court judgment, which this guidance ignores. This creates extra work for them, which they might reasonably expect Welsh Government to have done. It would be understandable if they mistakenly assume that Welsh Government statutory guidance is definitive and impartial.

Question 5 – Are learners with protected characteristics included?

Yes	✓	**No**	☐	**Don't know**	☐

Supporting comments

We have responded with a 'yes' to this question, but it is a yes with qualification.

While many characteristics are covered in the guidance, protected and otherwise, there is no clear distinction made between legally protected characteristics as defined in the Equality Act 2010, and other identities, characteristics or descriptions that have no legal status. Unless there is a clear explanation of these the protection children with protected characteristics are entitled to under the law is undermined.

The focus on gender and sexual orientation in the document also gives the impression that there is a hierarchy of protected characteristics or that possession of any of the ones that get a special focus are more likely to be the targets of bullying behaviour, or more deserving of a strong response from the school. Most teachers are aware of the complexity of dynamics between children and there should be no implied message that the schools response should be anything by fair and impartial.

The additional weight that seems to be given to some characteristics is notable. There are more than 10 defined terms in the opening section relating to gender/gender identity/transgenderism (but no legally accurate definition of the protected characteristic of gender reassignment). On the other hand the definition of sex is an incomplete quote from Equality Act 2010, S.11, with no explanation of what this means and how it interacts with other protected characteristics (notably that of gender reassignment) and the single sex exceptions in the legislation. This appears to be deliberately obstructive and unhelpful considering the statutory nature of this guidance.

The definitions of 'sex' and 'gender', and 'gender reassignment' need to be clarified and then used consistently throughout.

In the current draft the list of terms is inconsistent with a strong bias towards ideological definition favoured by some activists and pressure groups. There is no place for this in government guidance. Some definitions are incorrect (e.g. intersectionality is not the same as multiple-disadvantage – as Crenshaw, the originator of the concept, has clarified, it is not cumulative but constitutive) or legally inaccurate and misleading (e.g. Hate Crime, which uses the definition used by some pressure or support groups, rather than a clear legal definition that needs to be read in conjunction with the College of Policing's Guidance in relation to potential hate crime incidents in schools).

The term 'Hate Crime' appears several times in connection with different characteristics, as well as being defined as a term, and is invariably misapplied (e.g. it is implied that Islamophobia is a 'hate crime' in itself). A hate crime is a criminal offence where hate is an aggravating factor. This is then taken into account in sentencing. It's not a standalone

offence, and it is not a crime in itself to feel or express hate. A criminal offence needs to have been committed in the first place. While any racism is abhorrent, bullying against children with some of the protected characteristics (e.g. race, religion or belief, gender reassignment) is not automatically a 'hate crime'. There is already a lot of public confusion about this and Welsh Government should not be adding to the confusion. Any action that a school takes in relation to this needs to take account of the nature of the criminal act and their existing duties and responsibilities to report. Police involvement is only rarely the appropriate automatic response where bullying in school is concerned, but where it is necessary there are guidelines for working alongside the police which need to be referenced. This is not just about the Prevent programme.

Question 6 – Is the Rights, respect, equality anti-bullying guidance explained clearly?

Yes	☐	No	✓	Don't know	☐

If not, which areas could be improved and why? Are there aspects that you particularly like, and if so, why?

The guidance is not clearly explained and is completely lost within a document that is far too long and is part polemic, part handbook and part poorly-referenced essay on the subject of bullying. A major reason for the lack of clarity is the current format, which is hard to read. There is an assumption that anyone needing to consult the guidance will pick it up and read it right through, front to back. In practice that rarely happens and thought needs to be given to how teachers and schools would like to see the information provided. Some content needs to be removed from the guidance and published elsewhere if it is still considered essential. Random capitalisation of some terms and words mid-sentence (e.g. children and young people) makes it quite hard to read, and inconsistent layout and spacing doesn't help. This could be addressed by following Welsh Government's own house-style guidelines. The definitions of terms used should be moved to a glossary at the end, and the key information for the intended audience should be the first substantial sections.

As we have mentioned in our responses to other questions the persistent confusion of sex/gender/gender identity throughout this guidance must be addressed. Not only is it unclear, but if the conflation remains it will make it very difficult for schools to fulfil their legal responsibilities with regard to 'sex' as a protected characteristic.

In the section on Homophobic, biphobic and transphobic bullying (page 37), for instance,

the examples re-categorise sexist bullying as homophobic or transphobic. Bullying a male or female learner considered effeminate or masculine respectively is sexist bullying, based on sexist stereotypes. It isn't clear in this section what 'gender variant' means (it is not defined in the terms section, and given the RSE curriculum it should be known that nobody fits gendered stereotypes completely). It may be that a learner who simply doesn't believe in labelling (or conversely that they do – who knows?), or believes that sex is biological, immutable and binary might be told this belief is unacceptable, when in fact it is protected in law. Several of our members, including some with experience of reading complex written material, have commented on this confusion. It needs to be clear that differences of opinion on matters such as sex and gender are not by definition misrepresented as misbehaviour, hate or bullying.

Much of the confusion in the document could be addressed by a thorough legal check to ensure that Welsh Government looks to the law for the content of statutory guidance. Taking the advice of NGOs or lobby groups who have different priorities doesn't demonstrate due diligence, especially because some have historically misrepresented the law.

Question 7 – Is the Rights, respect, equality anti-bullying guidance user-friendly?

Yes	☐	**No**	✓	**Don't know**	☐

If not, which areas could be improved and why? Are there aspects that you particularly like, and if so, why?

The document is not user-friendly. It is too long. The information is not provided in the order in which the key audiences will need to access it. There is a need for those using it to cross-reference to other guidance and documents, rather than the guidance pulling that together in one place. Some of the information is out of date and not compliant. The language used in the definitions and much of the main part of the document is not accessible.

An additional concern is that the various alternative versions of the guidance which appear on the consultation page are not consistent with the full draft guidance. We do not have the time to point out all the inconsistencies, but this needs to be addressed.

It is of concern that the weaknesses in the guidance will lead to schools seeking support from organisations which have an agenda to push. They should be able to rely on Welsh Government statutory guidance for clear, unbiased, legally accurate information.

Question 8 – Should other areas which you have not had an opportunity to comment on above be included in the Rights, respect, equality anti-bullying guidance? If yes, please provide details.

Yes	☐	No	✓	Don't know	☐

Supporting comments

We are reluctant to suggest adding new areas since the draft guidance is already overloaded with disparate information. Our hope would be that it can be pared back because patterns of bullying behaviour are fairly consistent whatever the characteristics, background or other factors that appear to be the 'reason' a child or young person is experiencing bullying from others. As a grass-roots feminist organisation it is our priority to work to ensure that statutory guidance such as this recognises sex and sexism. Unless the draft guidance is extensively revised and there is a danger that girls' rights to protection on the basis of sex under the UNCRC, the Human Rights Act, the Equality Act, the Violence Against Women and Girls, Domestic Abuse and Sexual Violence (Wales) Act, CEDAW and other international human rights treaties will not be fulfilled in Wales.

Question 9 – How helpful do you find the Rights, respect, equality anti-bullying guidance?

Extremely helpful	☐	Very helpful	☐	Somewhat helpful	☐	Slightly helpful	✓	Not at all helpful	☐

If you have answered 'Somewhat helpful', 'Slightly helpful' or 'Not at all helpful', what are the improvements you would like to see?

Please see our responses to other questions. The guidance is too long. It is not user-friendly. It is legally inaccurate and does not take account of recent legal clarification and health policy and practice developments. We do

not believe that it will be helpful to schools and others in the target audience who would want to consult it.

Question 10 – Does the current suite of training on Hwb support the use of the Rights, respect, equality anti-bullying guidance?

Yes	☐	No	☐	Don't know	✓

If not, what additional training is required?

Question 11 – How helpful is the Rights, respect, equality anti-bullying guidance in supporting you to report and record incidents of bullying?

Extremely helpful	☐	Very helpful	☐	Somewhat helpful	☐	Slightly helpful	☐	Not at all helpful	☐

Supporting comments

We are not involved in the process of reporting and recording, however the need for accurate recording of sex has been highlighted in the recent UK Government commissioned Sullivan Review. It is important that if categories of bullying are recorded that they can be defined accurately. Bullying behaviour which is sexist, for example harassment of a child who is deemed to be 'too butch' to be a girl is based on sexist stereotypes. The guidance muddies the water in this respect. For the girl experiencing the bullying the important thing is for it to stop. Recording such incidents as 'homophobia' or 'gender-based' allows sexism in schools to persist. It also gives the impression that the bully's insults are correct. Such behaviour needs to be addressed effectively and often the labelling of people, as well as behaviour, that guidance such as this encourages makes that much harder.

Question 12 – 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?

Strongly	☐	Agree	☐	Neither	☐	Disagree		Strongly	✓

agree				**agree nor disagree**			☐	**disagree**	

Comments

We cannot think of a legitimate reason for this question to have been shoe-horned into this consultation. Under the current regulations schools are not prohibited from providing gender-neutral toilets as long as they already meet the requirements for single-sex provision set out in the regulations.

The inclusion of this question looks like an underhand way of trying to obtain some sort of statistic to claim that there is support for a change in these regulations without proper consultation or even an explanation of why the change might be needed and the evidence base. It is anti-democratic and unscientific to use such an approach, if our suspicions are justified.

We know that there are many new school buildings in Wales whose school toilets are not compliant with the regulations. In the interests of protecting the rights of children of both sexes under the UNCRC and girls rights under the Equality Act 2010, Welsh Government's priority should be to enable those schools to have suitable, legally compliant toilet provision.

Welsh Ministers should not be seeking to change the law to make a problem of their own making disappear – at the expense of children's rights to dignity, safety, health and well-being. It would have a disproportionate impact on girls with the protected characteristics of disability, of race and of religion or belief, despite Welsh Government's claim to espouse intersectionality.

We have already undertaken research on this issue in schools throughout Wales and have been contacted by learners and their families. We will be watching to see what proposals are brought forward.

Question 13 – What, in your opinion, would be the likely effects of revising the Rights, respect, equality anti-bullying guidance on the Welsh language? We are particularly interested in any likely effects on opportunities to use the Welsh language and on not treating the Welsh language less favourably than English.

Do you think that there are opportunities to promote any positive effects?
Do you think that there are opportunities to mitigate any adverse effects?

Supporting comments

This is not a key area for us, but it does illustrate the problem of trying to categorise and list every type of bullying, or what will be interpreted as 'every type of bullying that matters' in the guidance. There is little consideration of the Welsh language in the draft guidance. Linguistic background, or whether you speak Welsh with your friendship group or not, can become an excuse for bullying, as can any other matter of difference. Since there is so much focus on the apparent characteristics a child may have which somehow motivates others to bully her or him, the absence of a reference to linguistic background is noticeable. Since this guidance will be used in Welsh schools and it is Welsh Government's intention to increase the number of Welsh speakers generally, it is surprising that it wasn't viewed as an equality issue by those preparing the draft guidance.

Question 14 – In your opinion, could the revised Rights, respect, equality anti-bullying guidance be formulated or changed so as to:

- have positive effects or more positive effects on using the Welsh language and on not treating the Welsh language less favourably than English; or
- mitigate any negative effects on using the Welsh language and on not treating the Welsh language less favourably than English?

Supporting comments

Please see our responses to other questions. Extensive revision will help everyone.

Question 15 – We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

Responses to consultations are likely to be made public, on the internet or in a report. If you would prefer your response to remain anonymous, please tick here: ☐