

Dear Petition Committee,

Thank you for the opportunity to comment further on the Minister's response regarding Petition P-06-1560: Reinstate single sex toilet provision in educational settings.

Having carefully considered the letter from Lynne Neagle MS, I do not believe the response adequately addresses the substance or urgency of the concerns raised.

1. Existing Law Is Clear – Yet Not Being Enforced

The Minister correctly states that under The Education (School Premises) Regulations 1999, schools in Wales are legally required to provide separate single-sex toilet facilities for boys and girls aged eight and over.

The Equality and Human Rights Commission has also clearly stated that schools in England and Wales must provide separate single-sex toilets for boys and girls over eight, and separate single-sex changing facilities over eleven.

However, the core issue raised in this petition is that many schools are not complying with this law. A number of schools have removed single-sex facilities entirely and replaced them with mixed-sex provision. In such cases, schools are operating in breach of the 1999 Regulations.

The Minister's letter reiterates what the law says, but does not address enforcement, oversight, or what action will be taken where schools are not complying.

2. “Gender Neutral” Is Not Neutral – It Is Mixed Sex

The 2025 consultation question referred to whether schools “may provide gender-neutral toilets in addition to sex-separated toilets.”

In practice, so-called “gender neutral” toilets in many schools are mixed-sex communal facilities. They are not neutral in any meaningful sense; they remove sex-separated provision. The summary of responses to Rights, Respect, Equality Anti-bullying Guidance Consultation made it clear that this is an area where there was little shared understanding, with some respondents assuming that all such provision would be in the form of fully enclosed, single user, lockable rooms (a legally compliant solution) whereas in practice it has been implemented as cubicles in shared spaces.

The evidence gathered by Merched Cymru through its School Toilets Campaign documents cases where girls report feeling unsafe, embarrassed, or avoiding toilet use entirely in mixed-sex facilities. Avoidance has clear safeguarding and health implications.

This is not a theoretical concern. It is a practical and documented one.

3. Legal Developments Strengthen the Case for Compliance

Recent rulings by the Supreme Court of the United Kingdom, alongside relevant High Court judgments, have reaffirmed the importance of clarity around sex in law and policy. These rulings underscore that where legislation specifies sex-based provision, it must be interpreted and applied accordingly.

[For Women Scotland v The Scottish Ministers <https://supremecourt.uk/cases/uksc-2024-0042>

Good Law Project Ltd v Commission for Equality & Human Rights <https://www.judiciary.uk/wp-content/uploads/2026/02/good-law-project-EHRC-AC-2025-1953-judgment-13Feb26.pdf>]

There should therefore be no delay in ensuring compliance with the 1999 Regulations. Awaiting updated guidance is not a lawful basis for non-compliance with existing statutory duties.

4. “In Addition To” Is Not What Is Happening

Even in schools that retain some single-sex toilets alongside mixed-sex facilities, there are practical inequities.

Evidence from Merched Cymru indicates that single-sex toilets are often fewer in number and located further away from main teaching areas. This disproportionately affects girls, who are statistically more likely to need timely access to toilet facilities, particularly during menstruation.

Placing single-sex provision at a distance while situating mixed-sex facilities centrally effectively disadvantages girls in practice, even where technical compliance may be claimed.

5. Safeguarding and Staff Burden

In schools with open mixed-sex facilities, staff are frequently required to supervise entrances to prevent misconduct. The need for constant teacher presence at toilet entrances indicates that such arrangements are not functioning as safely or smoothly as suggested.

If facilities require ongoing adult monitoring to maintain order and safety, this raises serious questions about their suitability and sustainability.

6. Local Resolution Is Not Sufficient

The Minister suggests concerns may be resolved locally through headteachers, governing bodies, or complaints procedures.

However, where there is systemic non-compliance with statutory regulations, this is not a matter that should depend on individual parents or pupils pursuing complaints school by school.

The duty to comply with The Education (School Premises) Regulations 1999 rests with responsible authorities. Enforcement and clarity should come from government, not through piecemeal local disputes.

Conclusion

- The Minister's response restates existing law but does not address:
- The widespread evidence of non-compliance.
- The safeguarding and dignity concerns raised by girls.
- The implications of recent court rulings reinforcing sex-based legal protections.
- The need for proactive enforcement rather than reliance on local complaints.
- The responsibility of Welsh Government to direct and monitor that the bodies and organisations it creates, supervises and funds to provide public services operate within the law and to clearly set out procedures for monitoring and enforcement.

For these reasons, I do not consider the response adequate. I respectfully ask the Committee to continue scrutiny of this matter and to seek clarification from the Welsh Government on:

- How compliance with the 1999 Regulations is being monitored and enforced.
- What action will be taken where schools have removed single-sex provision.
- Whether clear direction will be issued confirming that mixed-sex facilities cannot replace required single-sex toilets.

This issue concerns dignity, privacy, safeguarding, and legal compliance. It warrants clear and decisive action rather than reliance on future guidance or localised approaches.

Thank you for your consideration.

Yours sincerely,
H Rowley