

PPSH 11

Ymateb gan: Comisiwn Cydraddoldeb a Hawliau Dynol

Response from: Equality and Human Rights Commission

Nodwch eich barn mewn perthynas â chylch gorchwyl yr ymchwiliad, sydd wedi'u grwpio'n 5 thema: | Record your views against the inquiry's terms of reference, which have been grouped into 5 themes:

1. Scale
2. Impact
3. Effectiveness of interventions
4. Wider context
5. Other

5.1 Scale

- The scale and nature of the issue in education settings and how many learners are affected.
- The extent to which this issue also occurs outside the formal education setting, including online.
- Schools, colleges and local authorities' collection and use of bullying and harassment data.

The Equality and Human Rights Commission (the Commission) is a statutory body established under the Equality Act 2006. It operates independently to encourage equality and diversity, eliminate unlawful discrimination, and protect and promote human rights.

[Is Wales Fairer?](#) (2018)¹ is the Commission's state-of-the-nation report on equality and human rights. We have a statutory duty to monitor equality and human rights, and to report regularly on progress. Evidence on sexual harassment and identity-based bullying is included within one of the key indicators of our [Measurement Framework](#)². We are able to use this in measuring progress to ensure people are free from discrimination and abuse in education.

It is clear that the evidence within [Is Wales Fairer? \(2018\)](#) is consistent with Estyn's findings. Our report found that sexual harassment and sexist bullying is too-readily accepted as part of life, with women reporting high levels of sexual harassment in the workplace and girls and young women facing sexist bullying in schools across Wales.

Below is some of the evidence we included:

- A 2016 study that investigated girl's experiences of growing up in Wales found that over 60% of girls had experienced bullying, 70% had experienced sexism and 65% had experienced sexual harassment (FullCircle Education, 2016).

¹ EHRC (2018) [Is Wales Fairer? The state of equality and human rights 2018](#)

² EHRC (2017) [Measurement Framework for Equality and Human Rights](#)

- In 2017 a survey of more than 1,500 secondary school children aged 11-16 in England and Wales found that over a third (37%) of female students of mixed schools had personally experienced some form of sexual harassment at school. Almost a quarter (24%) had been subjected to unwanted physical touching of a sexual nature while at school (National Education Union and UK Feminista, 2017).
- A survey of nearly 2,000 young women and girls aged 13-21 across the UK found that 36% of respondents had experienced sexist comments on social media in the previous year – a major increase since 2014, when the proportion was 15% (Girl guiding, 2017).

We also reported that for some children and young people physical identities such as gender, ethnicity and disability were considered key factors in prompting bullying (Children’s Commissioner for Wales, 2017).

Through our measurement framework we will continue to collect evidence on progress to tackle sexual harassment and identity-based bullying. We will report on progress in our next *Is Wales Fairer?* report.

We welcome the recommendations in the Estyn report for schools to improve the way they collect analyse and monitor data on bullying and harassment and for local authorities to work with schools on this. It is key that this data is broken down by the protected characteristics to enable an effective response.

Teachers need to be supported to be able to identify and respond to sexual harassment and bullying. As we set out in our response to the refreshed VAWDASV strategy consultation, **we would recommend that teachers are provided with professional development training and support throughout their careers so they can recognise, record and challenge sexual harassment and bullying.**

We further discuss the use of sexual harassment and bullying data in our response on the effectiveness of interventions.

5.2 Impact

- The impact on pupils’ learning, mental health and well-being.
- The impact on education settings and staff, for example in terms of discipline and the extent to which harassment among learners has become ‘normalised’.
- The specific impacts on particular groups of learners (e.g., older pupils, girls, LGBTQ+ pupils, etc.).

Harassment and bullying is a breach of children’s rights as set out by the UN Convention on the Rights of the Child. Children and young people need to be

protected from harassment and bullying so they can survive, develop and participate in a fulfilling life.

Research has shown harassment and bullying in schools can be a significant barrier to learning and impact on an individual's emotional wellbeing and health. As well as the short term impact we know there can be substantial long term effects. Is Wales Fairer? (2018) reported a study involving British adults which found that at age 50, those who had been bullied in childhood were more likely to have anxiety, depression and suicidal thoughts and be less satisfied with their lives than those who had never been bullied (Evans- Lacko et al, 2016).

Peer on peer sexual harassment can also sit under the wider umbrella of Violence Against Women and Girls. In responding to the Welsh Government's refreshed Violence Against Women, Domestic Abuse and Sexual Violence strategy, we highlighted evidence from the Estyn report in regards to addressing harassment in public places and spaces.

Tackling peer on peer sexual harassment in schools needs to be linked to the Welsh Government's wider work to address sexual harassment and other forms of violence against women. The Estyn report shows the extent of sexual harassment in schools but young girls will be experiencing this type of harassment in other areas of their life such as while on school and public transport, walking in the street and enjoying social activities with friends. The wider impact of this is that girls and young women cannot enjoy public space in the same way that boys and young men can.

We know that pupils with certain protected characteristics are more likely to experience harassment and bullying. Estyn's report highlights that girls are more likely to experience sexual harassment and LGBTQ+ pupils have substantial personal experiences of verbal homophobic harassment. We also know that ethnicity and disability, such as Additional Learning Needs can make children and young people more likely to be victims of bullying.

It is important to also consider the intersectionality of those experiencing harassment and abuse. Estyn's report does not explore how additional characteristics can compound the harassment and bullying. This can mean that individuals are more likely to experience additional barriers when seeking out help and support.

We would recommend action is taken to ensure there is more understanding of the impact of intersectionality and the impact this has on interventions and support that is put in place.

5.3 Effectiveness of interventions

- The effectiveness of existing policies and guidance, and the identification of potential solutions and improvements.
- The effectiveness of the roles of a wide range of statutory bodies (including the police, social services, local authority education departments, pupil referral units and schools themselves) and the extent to which a multi-agency approach is being taken where appropriate.
- The effectiveness of the Welsh Government's response across all its relevant departments with a focus on education, social services and community safety and its inclusion of non-devolved services such as the police and the criminal justice system.

Our [human rights tracker](#)³ contains an assessment of the Welsh Government's progress on harassment and bullying in schools. Currently the Commission has allocated a progress assessment of "limited progress" meaning there have been legal or policy changes to improve human rights protections but very limited evidence of substantial improvements in the enjoyment of human rights on this issue.

The Welsh Government has legislated to make relationships and sexuality education a statutory component of the new curriculum- ensuring that schools tackle harassment and bullying in all its forms- and has produced guidance to support anti-bullying, including sexual harassment. However, schools still do not have a duty to collect evidence on incidents of identity-based bullying, including sexual harassment.

Collecting, analysing and monitoring data helps schools to develop effective policies, identify where sexual harassment and identity-based bullying is taking place, spot any trends and take action.

In our [work⁴ on tackling identity-based bullying](#), we highlighted that many schools would not collect data on bullying for fear it would be viewed negatively because bullying was taking place.

This lack of data, and the Welsh Government's own lack of indicators to measure improvements in levels of harassment and bullying, make it difficult to assess the extent of progress. As the Estyn report shows the number of learners who regularly experience sexual harassment and bullying is high, with those sharing certain protected characteristics at particular risk.

We recommend that the Welsh Government should require schools to gather data on sexual harassment and bullying, including on the basis of protected characteristics. This information should be used by schools to develop equality objectives under the Public Sector Equality Duty (PSED) to take

³ EHRC (2021) [Harassment and bullying in schools- Welsh Government](#) [accessed:16th March 2022]

⁴ EHRC (2019) [Bullying](#) [accessed:15th March 2022]

action, evaluate and report progress on anti-harassment and bullying strategies.

The Public Sector Equality Duty (PSED) applies to schools and colleges in Wales. It is a helpful mechanism to enable schools to identify, tackle and address persistent inequalities. It is a legal requirement, within the Equality Act 2010.

The general duty of the PSED has three aims which each have clear links to tackling sexual harassment and identity-based bullying. It requires all schools in Wales to have due regard to the need to:

- Eliminate discrimination and harassment and victimisation
- Advance equality of opportunity
- Foster good relations across all protected characteristics.

To support schools in meeting these aims, the duty includes a series of specific duties to follow. These include setting meaningful equality objectives and having a strategic action plan to deliver these objectives. Schools must then collect and use data to both inform the objectives and monitor and demonstrate progress.

It needs to be more explicit to schools that they should gather data on harassment in order to fulfil their obligations under the PSED and that such data must be analysed and acted upon.

In our work⁵ on identity-based bullying, we gathered [a range of examples](#) from schools to demonstrate how data gathering can be simple and effective. This included working with Crickhowell High School in Powys, to learn more about how they use a data-based approach to tackle on-line bullying – especially involving sexually explicit content.

The Commission is the regulator of the PSED. Given the evidence provided by *Is Wales Fairer?* (2018) and the more recent Estyn report, work should be done to ensure that maintained schools have in place a published Strategic Equality Plan and that their equality objectives include a priority on tackling sexual harassment and identity-based bullying in schools.

Doing so will enable a preventative whole school approach that teaches children good relationships and conflict resolution skills from an early age and ensure clear strategies for recognising and tackling sexual harassment and identity-based bullying when it occurs.

We recommend that Estyn make it clear that schools should gather data in order to fulfil their obligations under the PSED and that such data must be analysed and acted upon in order for the process to have any value.

We welcome the supporting resources developed by Estyn for schools to evaluate the effectiveness of their current provision for relationships and sexuality education and plans for improvements. It includes national guidance documents, reports and resources for schools. We believe there is a gap in this resource around the PSED

⁵ EHRC(2018) [How schools can use data to prevent and tackle bullying](#) [accessed 14th March 2022]

and how it can be used by schools to tackle and address sexual harassment and bullying. We would welcome the opportunity to work with Estyn to include our PSED guidance and develop top tips for schools on using the PSED.

We would recommend that Estyn work with the Commission to raise awareness of the PSED and how it can be used as a useful tool in taking action on sexual harassment and identity-based bullying.

We would welcome an Estyn thematic review which focuses on how schools use the public sector equality duty.

5.4 The wider context

- The impact of online content and influences on young people's attitudes, and the wider context of online safety and potential legislation at Westminster.
- The role of families, parents, and carers.
- The role of the new Curriculum for Wales in developing healthier attitudes towards relationships and sexuality issues.

We welcome the introduction of relationships and sexuality education (RSE) which requires schools to teach pupils about respectful relationships, consent, and damaging stereotypes (including in relation to sex, gender and sexual orientation) as a statutory part of the new curriculum for all education settings.

In our response to Welsh Government's Refresh of the Violence Against Women and Sexual Violence strategy **we recommend requiring schools to adopt human rights education across all subjects and key stages of the national curriculum, and support schools to adapt their teaching in line with human rights education, including by producing guidance and signposting to existing resources.**

Equipping children and young people with knowledge and understanding of human rights is key to preventing and tackling sexual harassment in schools. Our research report '[Respect, Equality, participation: exploring human rights education in Britain](#)', undertook an in-depth qualitative study of ten schools across England, Scotland and Wales that implemented a 'whole curriculum' HRE approach. We found that this approach has the potential to reduce prejudice and create a more cohesive and integrated student body. The schools in our research reported that making children aware of their rights encouraged them to join extra-curricular activities to address injustices in their local communities.

A rights based approach on tackling sexual harassment would include:

1) Teaching about human rights: schools should support children to understand that sexual harassment is a form of discrimination and a human rights violation.

2) A comprehensive and inclusive approach: providing information on all forms of harassment, from the early stages of education.

3) Participation of children: schools should involve children in shaping the curriculum and wider school safeguarding policies to ensure that they are relevant and adapted to their needs.

By encouraging teachers and children to respect and realise each other's rights, a rights-based approach is also consistent with the obligations of schools under the Public Sector Equality Duty.

There is also some evidence that teachers are unsupported and ill-equipped to prevent and respond to sexual harassment and sexual violence.⁶ In its last review of UK and devolved Governments, the Convention on the Elimination of Discrimination Against Women (CEDAW) Committee expressed concern about findings on the prevalence of sexual harassment in schools and recommended that the UK and devolved governments promote human rights education that includes a focus on the empowerment of girls and on the CEDAW convention.⁷

We recommend that Welsh Government should prioritise a preventative approach to sexual harassment and identity-based bullying in schools by equipping children and young people with knowledge and understanding of human rights. This should include:

- **Ensuring support for schools and colleges in shaping their RSE curriculum in line with a rights based approach, including by drawing on relevant Council of Europe and United Nations resources.**
- **Making human rights education, including knowledge and understanding of the UN Convention on the Rights of the Child (CRC), a mandatory part of all teacher training and continued professional development. This should focus on supporting children to understand that sexual harassment is a form of discrimination and human rights violation, and explaining what they can do to challenge it.**

In our consultation response to the CYPE Committee on the Curriculum and Assessment (Wales) Bill we highlighted that the equality considerations and implications across protected characteristics must be embedded into all of the plans to undertake a post-implementation review. This will ensure the Welsh Government is able to fully understand and assess the impact on children and young people with protected characteristics. We highlighted the need to gather, disaggregate, use and embed equality related evidence and to take an intersectional approach as a part of

⁶ National Education Union (2019), [It's just everywhere – sexism in schools](#). Findings include: Over a quarter (27%) secondary school teachers say they would not feel confident tackling a sexist incident if they experienced or witnessed it in school; over half (64%) are unsure or not aware of the existence of any policies and practices in their school related to preventing sexism; one in five (20%) has received training in recognising and tackling sexism as part of their Initial Teacher Education; only 22% have received CPD training in recognising and tackling sexism, page 18.

⁷ United Nations (2019), Concluding observations on the eighth periodic report of the United Kingdom of Great Britain and Northern Ireland, page 19

the PSED collecting and using relevant equality information. This is critical in meeting the general and specific duties of the Public Sector Equality Duty and essential to making informed and effective decisions. **We would recommend the CYPE Committee scrutinise the Welsh Government's plans for any post implementation review.**

In our response to the Welsh Government's Refresh of the Violence Against Women and Sexual Violence strategy we highlighted the Blueprint must reference on-line safety and recognise the internet and social media as a key area where VAWDASV is perpetrated in addition to the 'street' and other areas. The Commission is currently developing a briefing on the revised Online Safety Bill, which we will share with the Committee once it is completed.

5.5 Other

Please record any views you have below that do not fit into the themes above.

We note that the Committee may consider further work on the impact within higher education. We would welcome this, especially given the current passage of the Tertiary Education and Research (Wales) Bill, which will impact on both higher and further education.

In our response to the Children, Young People and Education Committee consultation on the Tertiary Education and Research (Wales) Bill, we welcomed the inclusion of 'promoting equality of opportunity' and 'encouraging participation' as two of the nine strategic duties of the Commission on Tertiary Education and Research. However, it is not yet clear how this will be achieved.

We recommended the new Commission on Tertiary Education and Research's Statement of Priorities and Strategic Plan need to explicitly reflect the vision and strategic commitment to promoting equality and encouraging participation. Mechanisms for achieving this need to be clear, robust and monitored.

Sexual harassment and identity-based bullying, within both the further and higher education settings, will negatively impact on student's ability to achieve equality of opportunity and participate. Further work on this will enable vital learning that can be built into the development of this new Commission on Tertiary Education and Research.

We would also highlight that schools, colleges and workplaces are workplaces too. Evidence gathered by NASUWT, the teachers' union⁸, found that nearly half of all teachers had themselves experiences sexual harassment or witnessed it against colleagues in their schools.

⁸ NASUWT(2018) [Government Equality Office Consultation on Sexual Harassment in the workplace](#) [accessed 23rd March 2022]

Sexual harassment is an issue which continues beyond schools and in to the workplace. In 2020 the Commission published [guidance](#)⁹ to explain employers' legal responsibilities and practical steps to prevent harassment and victimisation at work. In addition, we published [seven steps](#) every employer should consider to ensure they are doing all they can to prevent and deal with sexual harassment in the workplace. **We would recommend all education settings in Wales adopt these seven steps.**

⁹ EHRC (2020) [Sexual Harassment and harassment at work](#)