

Government consultation on Further Education Residential Settings: national minimum standards

Response of the Association of School and College Leaders

A. Introduction

1. The Association of School and College Leaders (ASCL) is a trade union and professional association representing around 25,000 education system leaders, heads, principals, deputies, vice-principals, assistant heads, business leaders and other senior staff of state-funded and independent schools and colleges throughout the UK. ASCL members are responsible for the education of more than four million children and young people across primary, secondary, post-16 and specialist education. This places the association in a strong position to consider this issue from the viewpoint of the leaders of schools and colleges of all types.
2. ASCL welcomes the opportunity to contribute to this consultation. Our response is based on the views of our members, obtained through discussions at ASCL Council, with relevant advisory groups, with our LGBT and women leaders' networks, and prompted and unprompted emails and messages. It reflects and builds on our recent [response](#) to the government consultation on new draft guidance for schools and colleges on gender-questioning children.
3. When considering the impact of any proposals on different groups, it is ASCL's policy to consider not only the nine protected characteristics included in the Equality Act 2010, but also other groups which might be disproportionately affected, particularly those who are socio-economically disadvantaged. We have highlighted towards the end of this response protected characteristics which we think may need more specific consideration in regard to this issue: namely religion and belief (including any particular considerations for schools with a religious character) and disability (including any particular considerations for children and young people with SEND).
4. We welcome the fact that the government has identified that there would be a discrepancy between the minimum standards for FE residential settings and the new guidance on gender-questioning children and young people, were this guidance to be implemented as it stands. It's important that the standards and guidance do not give contradictory advice to FE settings.
5. As we made clear in our response to the gender-questioning consultation, as a trade union and professional association representing school and college leaders ASCL has no ideological position on this issue. We do not have any deep understanding of the clinical, psychological or sociological reasons why increasing numbers of children and young people are questioning their gender or identifying as trans. We are not experts in the impacts of different approaches to gender-questioning children and young people on their current or future health and wellbeing. We do not have extensive in-house legal expertise on this issue (our legal team are principally employment lawyers). We therefore leave views on those issues to other respondents with more relevant expertise.

6. Where we have some expertise is in assessing the extent to which the proposal in this consultation will be workable 'on the ground', and the extent to which this will help leaders to take decisions which support and protect their students, their staff and themselves. We have therefore answered the question from this perspective.

B. Answer to specific question

Question: We are proposing to amend paragraph 5.2 and its footnote relating to residential accommodation and students who are questioning their gender. Do you agree with these proposals?

7. Yes. We agree that the proposed amended paragraph and footnote provide greater clarity for FE settings, and align with the new draft guidance on gender-questioning children and young people. They also largely reflect the approach already taken by the majority of FE settings which provide residential accommodation.
8. As we set out in our response to the gender-questioning consultation, given the sensitive nature of this issue and the lack of case law in this area, we ask the government to provide a categorical statement that FE settings abiding by these revised standards would be fully compliant with the Equality Act. If it is not possible to make such a categorical statement, the government must provide assurances that it would, itself, defend any legal action brought against an FE setting abiding by these standards.
9. It's worth noting that, unlike in universities, college residential accommodation is generally quite small-scale and therefore any changes required to meet the revised standard are likely to be costly to colleges. We suggest that the government should provide capital funding for any building work needed and a period of transition for settings to undertake this.
10. In our response to the draft guidance on gender-questioning children, we said that one aspect that schools and colleges would welcome more detailed guidance on is the question of how to ensure the advice on boarding and residential accommodation can be followed while respecting the privacy of gender-questioning pupils. What information about other students in a residential setting is it appropriate and legal to share with other students and parents, for example? There are undoubtedly examples of excellent practice in this area which the guidance could spotlight.
11. As we again stated in our response to the draft gender-questioning guidance, ASCL would welcome a specific focus in any guidance or standards in this area on people with protected characteristics who may be affected by decisions and actions taken. These include those with the characteristics of religion or belief (including any particular considerations for establishments with a religious character) and disability (including any particular considerations for children and young people with SEND).

C. Conclusion

12. We are broadly in favour of this change, with the additional comments set out above.
13. We hope that this response is of value to your consultation. ASCL is willing to be further consulted and to assist in any way that it can.

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