THE VALE OF GLAMORGAN COUNCIL

CORPORATE PERFORMANCE AND RESOURCES SCRUTINY COMMITTEE:
17TH JANUARY, 2024

REFERENCE FROM LEARNING AND CULTURE SCRUTINY COMMITTEE:
11TH JANUARY, 2024

" DRAFT TRANSGENDER INCLUSION TOOLKIT AND GUIDANCE
DOCUMENT FOR SCHOOLS AND OTHER SETTINGS (DLS) –

The item was presented by the Safeguarding Officer and David Davies, Wellbeing
Transformation Adviser, who advised that the report and "Toolkit" had already been
reported to Corporate Parenting Panel on 8th January, 2024, as reporting dates had
changed since the production of the report.

The purpose of the report was to advise Scrutiny Committee of the findings of the
consultation on the revised Vale of Glamorgan Council's Transgender Inclusion
Toolkit and Guidance Document for Schools and Other Settings ("the Toolkit")
(attached at Appendix A to the report).

The Vale of Glamorgan Council's Transgender Inclusion Toolkit and Guidance
Document for Schools and Other Settings as currently published was approved by
Cabinet on 30th April, 2018.

In recognising social, political and legal contexts and that these changed over time,
more recently the Council had been progressing its review of its Toolkit having
liaised with colleagues from both Welsh Government and other Local Authorities in
England and elsewhere in Wales.

Following approval from Cabinet on January 19th, 2023, the Council undertook a
consultation on its revised Toolkit. The consultation took place between
23rd January and 17th March, 2023.

On commencement of the consultation the Council withdrew the existing Toolkit but
continued to work to safeguard all groups of pupils and students and provided
support on a case-by-case basis with schools requesting additional support from the
Council where necessary.

Since the conclusion of the consultation period, all responses had been subject to
careful and considered evaluation and amendments made to the Toolkit. The
responses had also been utilised to update the Equalities Impact Assessment.

The consultation responses and proposed amendments to the Toolkit were being
reported back to the relevant Scrutiny Committees prior to the matter being referred
back to Cabinet for further consideration and determination.

Following the presentation of the report Councillor Marshallsea advised that they were pleased to support the Toolkit, and remarked that it was straightforward and easy to read. They further advised that the Toolkit supported vulnerable young people, and that they were pleased that the teaching profession was being asked to use its professional judgement in this manner.

Dr. M. Price subsequently advised that he found the latest version of the Toolkit to be a great improvement on its previous incarnation, and a sensible means of approaching a sensitive and emotive subject. Dr. Price further advised that he understood that Welsh Government also intended to provide guidelines on this topic, which could produce a second set of additional guidelines. He further advised that there may be difficulties involving parents in discussion of the matters covered within the Toolkit, particularly around the preferences or wishes of the child or young person concerned. Dr. Price subsequently advised that overnight trips within school environments could add costs regarding the safety of facilities with regards to issues included in the Toolkit. He advised that overall he found this version of the Toolkit to be a great improvement on its predecessor.

In response, the ALN and Wellbeing Transformation Adviser advised that it was pleasing to see that significant progress had been made regarding the Toolkit, and that time had been taken in order to respond responsibly to the issues raised. They added that if and when Welsh Government published an all-Wales document, the Council would supersede to that document, rather than adopt a two-pronged approach based on two guidance documents.

The ALN and Wellbeing Transformation Adviser further advised, with regards to involving parents in matters covered within the Toolkit, that this was a challenging dilemma, and a significant decision for a young person to make, hence why officers were not comfortable with the idea of not involving parents in these discussions.

With regards to additional costs involved with school trip accommodation, the ALN and Wellbeing Transformation Adviser advised that such costs would need to be looked at, and not passed on to those with protected characteristics. They further advised that the issue of involving parents was more complex if there were safeguarding issues being raised, and if the child or young person discussing being transgender or gender-questioning would not expect to tell parents, and particularly if the child or young person did not wish for this to happen.

R. Goodjohn subsequently advised that he found the Toolkit to be a very good resource, that learners who identified as trans would benefit from. He further advised, however, that he was concerned regarding parental involvement; that privacy was very important; that those socially transitioning may not want their parents to be informed, and that this could be detrimental to their mental health.

The Safeguarding Officer subsequently clarified that the report and guidance stated that if there was a strong reason for concern, or if informing parents could be detrimental to the mental health of the child or young person, then the involvement of safeguarding professionals would be advised.

A. Emmerson subsequently advised that she would like to take the opportunity to come out in support of the Toolkit, as it increased understanding during a vital stage of young peoples' lives.

The Vice-Chair subsequently advised that they agreed with the handling of Gillick Competence within the report, and that they would like to move the recommendations within the report on-block.

The ALN and Wellbeing Transformation Adviser advised that training providers were currently being identified to provide training to sit alongside the Toolkit, due to the complexity of the issues involved.

The Cabinet Member for Education, Arts and the Welsh Language subsequently advised that they welcomed and endorsed all positive comments regarding the Toolkit, and thanked the officers involved in the lengthy process of producing it.

The Chair subsequently asked what efforts had been made to reach ethnic minorities and religious groups with the consultation process. The ALN and Wellbeing Transformation Adviser subsequently advised that they had met with representatives of the Catholic Church in Wales, for example, but that they had not found it appropriate to make additional efforts to reach ethnic minorities and religious groups, over and above other participants. They added that the consultation process had been ongoing for two months, providing plenty of opportunities for people to involve themselves and have a voice.

The Chair subsequently referred to the consultation responses contained within the report's appendices, and advised that the majority of parents disagreed with the Toolkit. The Chair highlighted the report's statement that some views of parents had been based on misinformation and misunderstanding. The Chair further queried whether this view was condescending towards parents. In response the ALN and Wellbeing Transformation Adviser advised that their view was that this was not an accurate reflection of the opinions of officers, and that a significant amount of parents' responses had been built into the new Toolkit. They added that a small minority of parents had raised ill- or misinformed views, and in some cases these bordered on being illegal. They added that officers highly valued the voice of parents in the decision-making process.

The Chair subsequently referred to paragraphs 2.37 and 2.38 in the report which covered the competing rights involved in the subject matter of the report, and asked Officers to provide their view on Safeguarding as the overriding responsibility with regards to the Toolkit and the Council's role in general. In response, the Safeguarding Officer advised that officers' safeguarding duties were required to cover all pupils, including those with protected characteristics. They added that this was informed by risk assessments that had been put in place.

Councillor Ewan Goodjohn subsequently advised that the report showed that more parents felt that the Toolkit was useful than did not; that more parents agreed with the Toolkit than did not, and that more parents found the Toolkit to be properly thought-out than did not. They advised, therefore, that it was unfair to state that the

Toolkit had been viewed negatively by parents. They added that the views of parents had been taken seriously into account and reflected within the Toolkit.

The Chair subsequently called for a vote on adding an additional fourth recommendation to those already set out within the report. A vote was cast via the Easy-Conference Hybrid Meeting Platform system and the Motion to add an additional fourth recommendation was carried, as per the recommendations below.

With no further comments or queries, Committee subsequently:

RECOMMENDED –

(1)   T H A T the content of the consultation responses, the revised Transgender Inclusion Toolkit and Guidance Document for Schools and Other Settings ("the Toolkit"); and the Equalities Impact Assessment, be noted with any recommendations being referred to Cabinet for consideration.

(2)   T H A T the report and appendices be referred to the Corporate Performance and Resources Scrutiny Committee for their consideration and comment, with any recommendations being referred back to Cabinet.

(3)   T H A T Committee accepts that the report and appendices be considered by the Corporate Parenting Panel, and any comments be referred back to Cabinet.*

(4)   T H A T having regard to the above, the latest version of the Toolkit be endorsed by Committee.

Reasons for recommendations

(1)   Having regard to the contents of the report and appendices, and to discussions at the meeting.

(2)   In order to make the Corporate Performance and Resources Scrutiny Committee and Cabinet aware of the content of the item, and the views of this Committee.

(3)   In order for Cabinet to receive any comments.

(4)   Having regard to the content of the report and appendices, and to discussions at the meeting, and to reflect the Committee's endorsement of the latest Draft Transgender Inclusion Toolkit and Guidance Document for Schools and Other Settings."

NB: * It being noted that the report had already been considered by the Corporate Parenting Panel on 8th January, 2024, where the report and appendices had been noted.

Meeting of:	**Learning and Culture Scrutiny Committee**
Date of Meeting:	**Thursday, 11 January 2024**
Relevant Scrutiny Committee:	Learning and Culture
Report Title:	Draft Transgender Inclusion Toolkit and Guidance Document for Schools and Other Settings
Purpose of Report:	To advise of the findings of the consultation on the revised Vale of Glamorgan Council Transgender toolkit for schools
Report Owner:	Paula Ham, Director of Learning and Skills
Responsible Officer:	David Davies, ALN Transformation Officer
Elected Member and Officer Consultation:	Officers Consulted: Head of Additional Learning Needs and Wellbeing Safeguarding Officer Learning & Skills Operational Manager Legal Services Corporate Equalities Officer Director of Corporate Resources
Policy Framework:	This is a matter for Executive Decision by the Cabinet

Executive Summary:

- The purpose of this report is to advise Scrutiny Committee of the findings of the consultation on the revised Vale of Glamorgan Council's Transgender Inclusion Toolkit and Guidance Document for Schools and Other Settings ("the Toolkit") (Appendix A).

- The Vale of Glamorgan Council's Transgender Inclusion Toolkit and Guidance Document for Schools and Other Settings as currently published was approved by Cabinet on 30th April 2018.

- In recognising social, political and legal contexts and that these change over time, more recently the Council has been progressing its review of its Toolkit having liaised with colleagues from both Welsh Government and other Local Authorities in England and elsewhere in Wales.

- Following approval from Cabinet on January 19th, 2023, the Council undertook a consultation on its revised Toolkit. The consultation took place between January 23rd and March 17th, 2023.

- On commencement of the consultation the Council withdrew the existing Toolkit but continued to work to safeguard all groups of pupils and students and provide support on a case-by-case basis with schools requesting additional support from the Council where necessary.

- Since the conclusion of the consultation period, all responses have been subject to careful and considered evaluation and amendments made to the Toolkit. (Appendix B)

- The responses have also been utilised to update the Equalities Impact Assessment (Appendix C)

- The consultation responses and proposed amendments to the Toolkit are being reported back to the relevant Scrutiny Committees prior to the matter being referred back to Cabinet for further consideration and determination.

Recommendations

1. The Committee considers and notes the content of the consultation responses; the revised Transgender Inclusion Toolkit and Guidance Document for Schools and Other Settings ("the Toolkit"); and the Equalities Impact Assessment, with any recommendations being referred to Cabinet for consideration.

2. The report and appendices be referred to the Corporate Performance & Resources Scrutiny Committee for their consideration and comment, with any recommendations being referred back to Cabinet.

3. The report and appendices be referred to the Corporate Parenting Panel for their consideration and any comments being referred back to Cabinet.

Reasons for Recommendations

1. To ensure that the Committee is fully appraised of the consultation findings, the resulting revisions made to the Toolkit and the Equality Impact Assessment, and to ensure the views of the Committee are reported to Cabinet for their consideration as part of the decision-making process.

2. To ensure that the Corporate Performance and Resources Scrutiny Committee fully considers the views of respondents to the consultation and subsequent amendments to the Toolkit and Equality Impact Assessment, and to ensure that the views of the Committee are reported to Cabinet for their consideration as part of the decision-making process.

3. To enable the Corporate Parenting Panel to consider the report and appendices, referring any comments back to Cabinet as part of the decision-making process.

1. Background

1.1   The Transgender Inclusion Toolkit and Guidance Document for Schools and other settings was first adopted by the Vale of Glamorgan Council in 2018 (Cabinet Minute C300 refers). The background to the introduction of that document followed a number of requests, dating from 2016, from Vale of Glamorgan schools asking for additional advice and guidance. The document was developed in response on behalf of the five Central South Consortium Local Authorities. Welsh Government were keen for Local Authorities in Wales to adopt the Toolkit which was also adopted by other Local Authorities in Wales, and in some cases subsequently withdrawn, by other councils in Wales.

1.2   In recognising social and political contexts and landscapes change over time, more recently the Council has been progressing its review of the toolkit having liaised with colleagues in Welsh Government and other Local Authorities in

England and elsewhere in Wales. The Coronavirus (Covid-19) pandemic delayed progress of this work, but since emerging from the pandemic, this work has been progressed. It is more important than ever to ensure that appropriate advice is given to schools to ensure that the duties owed by the Local Authority are met in respect of all people with a protected characteristic, and to take account of the developments in case law and reviews undertaken.

1.3   The Council also recognises that identities evolve and are relative to different contexts. Therefore, in consulting widely on the Council's policy document, we remain open to learning from schools, different communities, new research, new case law, and best practice and use this to continually review our practice to ensure it remains relevant and up to date.

1.4   The Council provides guidance to schools on a range of issues, such as anti-bullying, safeguarding, physical restraint, isolation etc and the Transgender Toolkit and Guidance forms a part of this suite of documentation.

2. Key Issues for Consideration

2.1   Cabinet agreed on 19 January 2023 to consult on the draft Transgender Inclusion Toolkit and Guidance Document for Schools and Other Settings.

2.2   The public consultation began on 23 January and ran for a period of seven weeks until 17 March 2023.

2.3   The consultation was hosted through the Council's public participation software, Participate Vale.

2.4   A list of agreed stakeholders, as identified in the Cabinet Report, were contacted, primarily via email, once the consultation began. Stakeholders were invited to respond to the consultation through Participate Vale.

2.5   The link to the dedicated consultation page was also published on the Council's website and the wider community was informed of the consultation via social media and invited to respond.

2.6   Residents who have subscribed to emails relating to consultations were also invited to respond.

2.7   Council officers also attended a series of meetings with stakeholders, some face to face and some online or in hybrid format, to present the draft toolkit and invite feedback as part of the consultation. The following stakeholders have been invited to share their views.

Stakeholder	Engagement method
Teaching professionals, specifically Head Teachers	In person termly headteachers meeting (secondary schools)
Pupils Schools Council network	In person
Parents	Via school emails and text notification with the direct link to the Participate Vale page
Organisations who are members of the Vale of Glamorgan Council Equalities Consultative Forum	Via hybrid (Teams) meeting and the direct link to the Participate Vale page was shared following the meeting.
Residents of the Vale who are members of the Vale of Glamorgan Council Citizens Panel	Via email with the direct link to the Participate Vale page
Trade unions as part of the Learning & Skills Joint Consultative Forum (JCF)	Via Teams meeting.
Vale of Glamorgan Diocesan Leads	Via Teams meeting.
Safeguarding in Education Group (SEG) which includes LA and WG representatives at an all-Wales level	Via Teams meeting.
Safeguarding professionals in Health, Police, Children Services, Adult Services at a local Vale level	Via Teams meeting.
Brighton & Hove Local Authority Cardiff & Vale VAWDSV representatives	Via Email. Via Teams meeting.
Learning & Culture Scrutiny Committee	Via Teams meeting.
Corporate Performance and Resources Scrutiny Committee	Via Teams meeting.
Estyn	Via Email.

Responses to the online survey

2.8 There were 591 responses to the online survey; 590 of these were submitted in English. A summary of responses to the English survey can be found in the Consultation Report (Appendix D). The response to the Welsh survey has been considered however it has not been attached so as not to inadvertently identify the respondent.

Profile of Respondents to the online survey

2.9 Just over 50% of responses were from parents. There were around 100 responses to the survey from pupils and schools-based staff, which represents 18% of respondents, in addition to face-to-face engagement with these groups. (See Appendix D for further details). The third highest response rate was from school governors at 8.1%.

2.10 There have been representations from the majority of schools in the Vale in addition to elected members, local health boards and neighbouring authority areas.

2.11   65.6% of respondents described their gender as female, 20.2% identified as male, 3.6% of respondents identify as non-binary and the remaining 10.5% of respondents selected 'other' or 'prefer not to say'. The census 2021 data shows the sex split in the Vale as 52% female, 48% male.

2.12   7.6% of respondents stated that their gender was different to what they were assigned at birth. The figure for the whole of the Vale according to census data is 0.36%.

2.13   73.9% of respondents describe themselves as heterosexual, 6% are gay or lesbian, 5% are bi-sexual, 2.9% are pansexual and 10% preferred not to disclose this information. This compares with 90.3% of the Vale's population describing themselves as heterosexual or straight according to Census 2021 data, 1.7% gay or lesbian, 1.10% bisexual and 0.2% pansexual.

2.14   The age profile of respondents was very broad. There were 4 respondents under the age of 12 and 6 respondents over the age of 65. However, over 60% of respondents were between the ages of 35 and 54. (Further details on the profile of respondents can be found in Appendix D)

Consultation Findings

2.15   There was significant support for the Toolkit from the majority of schools staff and pupils who were of the opinion that the guidance was vital in order to build inclusive and safe environments for young people.

2.16   There were comments stating that the Toolkit was too long and contained too much detail to be user friendly. However, there were also many comments indicating that the detail provided was helpful.

2.17   This issue was also raised by a number of young people who felt the toolkit should be accompanied with an easy-to-understand document or a young person infographic.

2.18   As a consequence of this feedback, further work will be undertaken to develop an easy read version of the toolkit once the final version of the toolkit is agreed and published. This will be predominantly for young people who will be fully involved in the development of this resource.

2.19   There were a number of parents who are fundamentally opposed the toolkit on the basis that they didn't believe it to be the role of schools to teach children and young people about relationships and sexuality as this should be the role of parents. In general terms, the view expressed was that the toolkit was, by teaching pupils about such matters, encouraging them to be trans.

2.20   Some parents were also concerned that the toolkit should not be used in teaching primary aged pupils as they were considered too young to be exposed to such content.

2.21   It should be emphasised that the Toolkit is not a teaching resource, rather a guidance document for staff working in schools to assist them in supporting pupils identifying as trans or gender variant. It is not a resource to teach pupils of any age about relationships and sexuality.

2.22 As a consequence, while recognising that some parents expressed the view that it was not the role of schools to teach pupils about such matters, these concerns are not pertinent to this consultation.

2.23 It is worth noting, however, that Relationships and Sexuality Education is a statutory requirement in the Curriculum for Wales framework and is mandatory for all learners from ages 3 – 16 and if parents have concerns about this then these should be raised with Welsh Government.

2.24 The Curriculum for Wales guidance sets out the legal status of RSE in the framework and identifies the legislative duties of schools and settings in terms of the development of and curriculum planning for RSE.

2.25 The RSE Code sets out the themes that must be encompassed in a school's RSE curriculum. It consists of three inter-linking strands:

- Relationships and identity

- Sexual health and well-being

- Empowerment, safety and respect

2.26 The Curriculum and Assessment (Wales) Act 2021 requires that a school or setting's RSE must be developmentally appropriate. To support practitioners in this, the RSE guidance sets out phases within each of the strands that allow practitioners to decide if learning is developmentally appropriate.

2.27 A small number of respondents were concerned that there was insufficient guidance in the toolkit about medical matters relating to gender transitioning.

2.28 Other respondents, mainly those involved in education, expressed concerns that they were being expected to provide medical advice and felt ill-equipped to provide this.

2.29 These differing views were considered and, having taken advice from Health safeguarding colleagues, the toolkit has been amended to advise that decisions and guidance about medical matters are made outside of education settings by colleagues working within the NHS. The recognised universal gateway into NHS services is via the GP service and any young person or parents seeking medical advice relating to gender transition should use this pathway.

2.30 Concerns have been raised that the guidance focuses on championing the rights of trans and gender variant CYP to the detriment of others (who also have protected characteristics) This view was most keenly expressed in relation to the use of single sex facilities by transgender pupils.

2.31 The toolkit is an important addition to the range of equality and anti-bullying resources and guidance we provide to education settings in the Vale of Glamorgan to support students with protected characteristics and wide-ranging needs.

2.32 The toolkit in conjunction with other guidance documents provides ideas for policy and practice that will keep all children and young people safe and help to create environments which help prevent and pro-actively respond to gender stereotypes.

2.33 As a consequence of the consultation process, the guidance has been amended to emphasise that, while it is extremely important to recognise that the Equality Act 2010 protects from direct and indirect discrimination in respect of the protected characteristic of 'gender reassignment', it is of equal importance to recognise that similar protection is provided to persons with the following protected characteristics:

- Age (for staff only)

- Disability

- Marriage and civic partnership (for staff only)

- Pregnancy and maternity

- Race

- Religion or belief

- Sex

- Sexual orientation

2.34 The Equality Act 2010 imposes a duty on public authorities including schools to pay "due regard" to the need to (a) eliminate discrimination and harassment; (b) advance equality of opportunity; and (c) foster good relations between those who do and do not share protected characteristics.

2.35 Compliance with this duty (referred to as the "Public Sector Equality Duty" or "PSED") requires that decision makers consider the potential equality implications of policies and significant decisions when developing policy and taking decisions, not as an afterthought.

2.36 The guidance also emphasises, that while some children and young people will have the protected characteristic of "gender reassignment" this does not require a public sector body to treat the child or young person of a sex other than that registered at birth; or require that such pupils are permitted to transition socially at school; however, it does require that they are not discriminated against because of their protected characteristic.

2.37 The Act also permits schools to provide single sex spaces and activities, and to exclude pupils of the other sex from them irrespective of their gender orientation, provided this is proportionate to achieving a legitimate aim. Assessing this requires a balancing exercise of the impact on trans or gender variant pupils and all other pupils of allowing a trans and gender variant pupil into single sex spaces such as toilets, changing rooms, or single sex bedrooms on school trips.

2.38 Schools are required to demonstrate that they are giving full consideration to the needs of the trans or gender variant pupils alongside the needs of all other pupils and ensure that trans or gender variant pupils are not treated less favourably because of this protected characteristic.

2.39 When making decisions, schools will need to be mindful of the potential impact on other pupils of having a pupil of a different sex present in single sex facilities.

It is recommended that schools carry out equality impact assessments when making changes to provision, with the purpose of reducing or preventing any potential negative impacts of any changes made.

2.40 The guidance also suggests that education settings should keep a record of their decision making, including their consideration of equality implications, and should keep the implications of policies and significant decisions under review.

2.41 In the consultation, schools expressed concerns about having to make these highly complex "case by case" decisions without any support to do so. However, the avoidance of unlawful discrimination often requires a "case by case" approach. The amended toolkit states very clearly that schools will not be expected to make these decisions in isolation and should seek advice from local authority officers who will provide support and guidance throughout the process.

2.42 The Toolkit reference is made to "Celebrating diversity and promoting inclusion: Good practice in supporting lesbian, gay, bisexual and transgender (LGBT) learners in schools and colleges", Estyn, October 2020.

2.43 The good practice guide recognises the challenges facing school leaders and states that effective leaders recognise that there are no standard or simple solutions to these challenges, and there is a need for dialogue with all involved. Staff should liaise and communicate effectively with parents and carers to address the challenges they face and modify provision where appropriate.

2.44 It is important to emphasise that, whereas changes to provision will not always be possible, schools have a duty to tackle discrimination and not tolerate homophobic, biphobic and transphobic bullying.

2.45 Consultation responses indicated that some parents were expressing significant concerns that the guidance to schools suggested that it was not always necessary to consult with parents when a child or young person indicated to school that they were transgender and wished to begin a process of social transitioning.

2.46 School leaders also expressed concerns about supporting a pupil in this regard without the involvement of parents.

2.47 In light of these concerns, the toolkit has been amended and the guidance now states clearly that schools should not support a learner to transition socially without involving the learner's parents in the process.

2.48 If the pupil is not happy to involve parents, then schools should not support the process. In exceptional circumstances, where it is felt that there are strong reasons to be concerned about the implications of involving parents, schools must consult with the Learning and Skills Safeguarding Officer who will advise on how to proceed or seek further advice from the Local Authority Designated Officer (LADO).

2.49 In addition, a number of comments felt that the toolkit was advocating that schools should automatically facilitate "transition" if this was the wish of the child or young person. This was not the intention of the toolkit which has now been amended accordingly.

2.50 The toolkit now clearly points to the Cass Review's conclusions that 'Social Transition' is not a neutral act and "may have significant effects on the child or young person in terms of their psychological functioning and that a "watch and wait" approach is advocated in the school setting.

2.51 There are different views on the benefits versus the harms of early social transition. Whatever position is taken, it is important to acknowledge that it is not a neutral act and care needs to be taken to ensure that no young person rushes into the process without a thorough understanding of its implications.

2.52 The Royal College of Psychiatrists advocate a "watch and wait policy, which does not place any pressure on children to live or behave in accordance with their [sex registered at birth] or to move rapidly to gender transition".

2.53 The guidance now reflects this position and indicates that schools should adopt a supportive, flexible and responsive attitude to affirm a child's expressed sexuality and gender, whilst being sensitive to change over time. This will involve making appropriate adjustments and ensuring that the child does not face discrimination or bullying.

2.54 The consultation process has been highly informative, the feedback has been considered fully and amendments made in response to strengthen Toolkit and enhance the guidance provided to schools.

3. How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

The Well-being of Future Generations (Wales) Act 2015

3.1 The Well-being of Future Generations Act 2015 ("the 2015 Act") requires the Council to think about the long-term impact of their decisions, to work better with people, communities, and each other and to prevent persistent problems such as poverty, health inequalities and climate change.

3.2 The Council has committed as part of the Corporate Plan 2020-2025 to achieving a vision of 'Working Together for a Brighter Future'. This plan is reflective of the Welsh Government's Well-being of Future Generations Act and is comprised of four Well-being objectives to deliver this vision:

- Objective 1 - To work with and for our communities

- Objective 2 - To support learning, employment, and sustainable economic growth

- Objective 3 - To support people at home and in their community

- Objective 4 - To respect, enhance and enjoy our environment.

3.3 To make sure we are all working towards the same purpose, the 2015 Act puts in place seven well-being goals on the Council. The 2015 Act makes it clear the listed public bodies must work to achieve all the goals, not just one or two, these being:

- A prosperous Wales

- A resilient Wales

- A healthier Wales

- A more equal Wales

- A Wales of cohesive communities

- A Wales of vibrant culture and Welsh language

- A globally responsible Wales

3.4 These proposals contribute to achieving the wellbeing goals by:

- Supporting schools to meet the social, emotional and mental health needs of all children and young people appropriately.

- Creating more inclusive schools that reflect the needs of all members of society

- Ensuring that all children and young people are treated equally

3.5 The 2015 Act imposes a duty on all public bodies in Wales to carry out "sustainable development", defined as being, "The process of improving the economic, social, environmental and cultural well-being of Wales by taking action, in accordance with the sustainable development principle, aimed at achieving the well-being goals." The action that a public body takes in carrying out sustainable development includes setting and publishing well-being objectives and taking all reasonable steps in exercising its functions to meet those objectives.

3.6 The 2015 Act sets out five ways of working needed for the Council to achieve the seven well-being goals, these being:

- The importance of balancing short-term needs with the needs to safeguard the ability to also meet long-term needs.

- Considering how the Council's objectives impact upon each of the wellbeing goals listed above.

- The importance of involving people with an interest in achieving the well-being goals and ensuring that those people reflect the diversity of the area which the Council services.

- Acting in collaboration with other persons and organisations that could help the Council meet its wellbeing objectives.

- Acting to prevent problems occurring or getting worse.

3.7 These proposals meet the five ways of working by:

- Developing a culture in schools which respects the needs of minority groups

- Encouraging greater understanding and empathy of towards vulnerable groups

- Ensuring the voices of young people impacted on the development of the guidance.

- Delivering rigorous consultation with numerous opportunities for a range of stakeholders to engage in the process.

3.8 The proposals have been appraised in terms of how they contribute to delivering upon the aspirations of the Act, the well-being goals, and the ways-of-working. This is does not form part of the statutory consultation process but was considered beneficial to meeting the spirit of the Act.

4. Climate Change and Nature Implications

4.1 There are no direct Climate Change and Nature Implications associated with this report.

5. Resources and Legal Considerations

Financial

5.1 Officer time has been utilised to develop the revised toolkit and will be required to launch the toolkit and provide support and advice to schools on implementation.

Employment

5.2 There are no direct employment implications associated with this report.

Legal (Including Equalities)

Equalities Act 2010

5.3 The Council has to satisfy its public sector duties under the Equalities Act 2010 (EqA) (including specific Welsh public sector duties). Pursuant to these legal duties Councils must, in making decisions, have due regard to the need to: eliminate discrimination and harassment, to advance equality of opportunity and to foster good relations between persons with different protected characteristics.

5.4 A full Equality Impact Assessment will be developed as part of the consultation exercise and will be included within the consultation report.

5.5 The Equality Act 2010 (section 7) defines a person as having the protected characteristic of "gender reassignment" if the person "is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex".

5.6 The Equality Act 2010 (section 11) sets out, in connection with the protected characteristic of sex, that "a reference to a person who has a particular protected characteristic is a reference to a man, defined as a male of any age or to a woman, defined as a female of any age".

5.7 The Gender Recognition Act 2004 (section 9) provides that:

'Where a full gender recognition certificate is issued to a person, the person's gender becomes for all purposes the acquired gender (so that, if the acquired gender is the male

gender, the person's sex becomes that of a man and, if it is the female gender, the person's sex becomes that of a woman)'

5.8 The Equality Act 2010 provides protection from direct and indirect discrimination in respect of the characteristic of 'gender reassignment' and also in respect of the protected characteristics of:

- age (for staff only)
- disability
- marriage and civil partnership (for staff only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

5.9 Section 13 of the Equality Act defines direct discrimination occurring where, because of gender reassignment or other protected characteristic, a person (A) treats another (B) less favourably than A treats or would treat others.

5.10 Indirect discrimination applies to all the protected characteristics, apart from pregnancy and maternity (section 19, Equality Act 2010). Indirect gender reassignment discrimination occurs where a provision, criterion or practice impacts particularly heavily on people with the protected characteristic of gender reassignment, and where the provision, criterion or practice is not shown to be a proportionate means of achieving a legitimate aim.

5.11 Decision makers in schools must be aware of the duty to have "due regard" to the need to eliminate discrimination and harassment, to advance equality of opportunity and to foster good relations between persons with different protected characteristics when making a decision or taking an action. In order to do this, decision makers should assess whether decisions may have particular implications for people with particular protected characteristics.

5.12 There is no hierarchy to the characteristics included in the Equality Act 2010, and it is expected that education settings in the Vale of Glamorgan work to safeguard all groups of pupils and students and balance varying needs. Support should be provided on a case-by-case basis, using the toolkit for reference and requesting additional support from the Council where necessary.

Safeguarding

5.13 Schools are required to follow statutory safeguarding guidance. There are no provisions in child protection and safeguarding legislation specific to trans, non-binary or gender exploring children and young people aside from what is in place to keep all pupils and students safe. Vale of Glamorgan schools are encouraged to follow their usual safeguarding polices, remembering that being trans is not in itself a safeguarding issue.

General Data Protection Regulations (GDPR)

5.14   Schools and education settings are required to comply with the UK General Data Protection Regulation (GDPR) in relation to personally identifiable information relating to all children and young people as well as other individuals. They will be aware of the GDPR in relation to processing and sharing of personal data. Such data includes any information that can identify a person or their family and this sort of data remains "personal" even if an individual chooses to publicise it.

5.15   Under GDPR Article 9, 'special category data' relates to more sensitive topics which may pose a risk to people's privacy, and which can only be processed under certain conditions. The UK Information Commissioner's Officer (ICO) provides further information on this data.

5.16   The GDPR does not prevent processing or sharing of personal information but requires that when we process such information we do so for a specific and limited purpose and ensure that the data used is proportionate to that purpose and that it is stored and shared securely. Additional controls apply to the processing of special category data (which includes data relating to medical/mental health, sexual orientation or gender identity). Such processing is allowed where there is legal duty to do so or where processing meets a substantial public interest such as safeguarding: see Schedule 1, Part 2 of the Data Protection Act 2018 and the ICO guidance on processing of special category data.

The Equality Act (Authorities subject to a duty regarding Socio economic Inequalities) (Wales) Regulations 2021

5.17   On the 10 and 11 March 2021 respectively, the Equality Act (Authorities subject to a duty regarding Socio-economic Inequalities) (Wales) Regulations 2021 (SI 2021/295) and the Equality Act 2010 (Commencement No 15) (Wales) Order 2021 (SI 2021/298) were made, and the 'socio-economic' inequality duty under the Equality Act 2010 and make public bodies subject to the duty.

5.18   The Socio-economic duty places a duty on the Council, as a public sector organisation in Wales, to consider how it might help reduce the inequalities associated with socio-economic disadvantage when strategic decisions are made, including decision which would include deciding priorities and setting objectives.

5.19   When making a decision or reviewing a previously made strategic decision made after 31st March about how to exercise their functions, the Council must show that it has had 'due regard' (giving weight to a particular issue in proportion to its relevance) to the desirability of exercising them in a way that is designed to reduce the inequalities of outcome which result from socio-economic disadvantage. Those subject to the duty includes government ministers and departments, local authorities, and NHS bodies. This would, as appropriate, form part of the full Equality Impact Assessment developed as part of the consultation process.

5.20   The legal implications are in addition to the above set out elsewhere within this report.

6. Background Papers

None.

Trans Inclusion

Schools Toolkit

A guide to supporting transgender children and young people in school.

Contents

Foreword October 2022

We are pleased to present this updated draft version of the *Trans Inclusion Schools Toolkit*, agreed for consultation by the Vale of Glamorgan Council's Cabinet in January 2022.

We recognise that Trans children and young people are vulnerable to bullying, prejudice and poor mental health outcomes if they are not effectively supported.

We see the Toolkit as an important addition to the range of equality and anti-bullying resources and guidance we provide to education settings in the Vale of Glamorgan that support a wide range of students' needs.

This version of the Toolkit will now be widely consulted on and any changes required will be made following this. We thank everyone who has contributed so far, and for those who will do so during the consultation process.

We know from conversations with young people and their families how vital they have found support in this area and the support our schools have offered them.

We believe this draft guidance provides ideas for policy and practice that will keep trans children and young people safe and help to create environments which help prevent and pro-actively respond to gender stereotypes.

Once the consultation process is complete, the Toolkit will be subject to ongoing review and development and we encourage continual discussion and engagement in this process.

Please read it carefully as this is a complex area of practice where careful thought and balance of needs is required.

Thank you in advance for your support.

Councillor Lis Burnett
Leader of the Vale of Glamorgan Council

Paula Ham
Director of Learning and Skills

Acknowledgements

This is the second version of Vale of Glamorgan Council's Trans Inclusion Schools Toolkit and reflects contributions and feedback from a wide range of sources.

This updated version has relied on:

- The Brighton & Hove Trans Inclusion Schools Toolkit and the contributions made by Allsorts youth project.

- The ESTYN thematic inspection report of peer-on-peer sexual harassment 'We don't tell our teachers' December 2021

- Welsh Government response to and recommendations resulting from the aforementioned ESTYN report

1   Introduction

1.1 Vale of Glamorgan's Council commitment to equality and inclusion

The Vale of Glamorgan Council is committed to promoting equality and inclusion. Our vision is for a more equal County where no one is left behind. Everyone deserves to be valued and treated with respect.

As an organisation, we work under the Equality Act 2010 and the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 to uphold the dignity and respect of all residents in the County, children and young people in our schools, and our staff. The Equality Act and the Wales Regulations also apply to schools.

The obligations imposed by the Equality Act and the Wales Regulations are considered at below. The legislation not only prohibits discrimination related to protected characteristics including gender reassignment, but also requires that public authorities including the Council and schools take active steps to remove or minimise disadvantages associated with these characteristics.

We understand that social and political contexts and landscapes change over time. We also recognise that identities evolve and are relative to different contexts. Therefore, we remain open to learning from schools, different communities, new research, new case law, and best practice. We will use this continually to review our practice to ensure it remains relevant and up to date.

The Trans Inclusion Schools Toolkit is intended for use by staff and governors in Vale of Glamorgan primary, secondary and special schools. Some of the content and principles will also be of use to Further Education and Early Years Settings. Independent schools within our County are welcome to access it.

It will be of particular interest to senior leaders involved in developing and leading whole-school policy across a range of areas of practice and to pastoral staff working directly with trans children and young people. However, all members of the school community should have an appropriate level of trans awareness (see sections 4.2 and 4.3 for information on the role of governors and staff training), with the level of awareness determined by role and context.

1.2 Overview

Education settings are diverse communities that reflect wider society and are places where children and young people learn about valuing and respecting themselves and others. Children and young people spend a great deal of time in these settings and should feel able to be themselves in them.

Schools and education settings have a responsibility to ensure that all children and young people in their care feel safe and supported to reach their potential and be the best version of themselves. Trans and non-binary children and young people will generally be a small group within a school community, but a potentially vulnerable one.

This Trans Inclusion Schools Toolkit is a Vale of Glamorgan Council guide for education professionals. Education settings will decide the extent to which the guidance is supportive of their values and ethos.

A glossary of terms is included in section 2.2 below. Here it is sufficient to say that the term "transgender" or "trans" can be understood as "an umbrella term for people whose gender identity is different from the sex registered at birth".[1] This toolkit uses the phrase "sex registered at birth" in line with the Census 2021[2], except where it is quoting other sources. A person's sex is registered at birth based on their physical characteristics in utero and at birth.

It is also useful to clarify at this point that "gender" refers to the socially constructed characteristics of women and men (girls and boys) including the norms applied to them, the roles they are expected to play and the relationships that are expected to exist between them. Gender expectations vary between cultures and can change over time. Finally, for the purposes of this overview, the term "gender identity" is used in this toolkit to refer to a person's internal perception of themselves, which may not match their sex registered at birth. Not everyone regards themselves as having a distinct gender identity, regarding the concept of "gender" as external and societally imposed rather than internal. But for others it is a central to the understanding of trans identity.

Many people do not regard (internally experienced) gender as being binary but see it as existing on a spectrum and increasing numbers of people are identifying as somewhere along a continuum between man and woman, or as non-gendered (neither man nor woman). The concept of non-binarism is not new and has existed for many years across different cultures around the world.[3]

Children and young people who develop an understanding of their gender identity as being different from their sex registered at birth may experience high levels of anxiety, as may their families. Some studies find trans young people to be at an increased risk of self-harm and suicide (see Appendix 2), and also find that this risk is significantly reduced when the young person is effectively supported[4]. The Royal College of Paediatrics and Child Health Care recognises, as does the Council, "the discrimination that arises as a result of misleading and prejudiced information, and the additional significant harm this can cause to LGBT+ children, young people and their families"[5].

Creating safe, inclusive learning environments is crucial therefore in order to reduce and prevent harm to vulnerable trans and non-binary children and young people such that they can learn and thrive at school.

Every trans child's and young person's views, experience, needs and journey will be different, and they should be consulted and involved in the support they are offered.

This toolkit does not address the needs of children and young people with differences in sex development, although it is possible that some of the inclusive practice outlined will provide support to them. Neither do all parts of this guidance refer to all trans, non-binary and gender exploring children and young people. The content related to single sex spaces,

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[1] Office for National Statistics
https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21
(Retrieved 14.5.2020)

[2] Census 2021 https://census.gov.uk/help/how-to-answer-questions/online-questions-help/is-the-gender-you-identify-with-the-same-as-your-sex-registered-at-birth

[3] Office for National Statistics
https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21
(Retrieved 14.5.2020)

[4] https://www.sciencedirect.com/science/article/abs/pii/S1077722918300385

[5] https://www.rcpch.ac.uk/resources/supporting-lgbtq-children-young-people#key-messages-for-health-professionals
(accessed 24.9.20)

for example, applies only to children and young people who have the protected characteristic of gender reassignment under the Equality Act.

This toolkit recognises that there will be trans and non-binary staff and governors in Vale of Glamorgan schools. Section 7 signposts resources that may be supportive in creating a working environment that supports and values these members of the community.

Trans inclusion is one part of a much wider equality agenda for schools. This toolkit focuses on trans children and young people for the reasons set out in the context statement in Appendix 1. Supporting trans pupils and students forms just one vital part of efforts to celebrate difference and tackle all forms of discrimination, including homophobia, biphobia, sexism, racism, religiously based prejudice and ableism. For guidance and training on these other important areas of work contact the Learning & Skills Directorate Safeguarding Team.

1.3 How to use the Toolkit

Different sections of the Toolkit will be relevant to different members of staff depending on whether their role is pastoral or curriculum-based. It is recommended that at least one member of staff and one member of the governing body has an in-depth knowledge of the contents of the toolkit.

Appendix 6 can be adapted to reflect your school practice and shared with staff to reinforce your approach to supporting trans children and young people. In Appendix 7 you will find an audit and action planning tool which may provide a useful starting point to developing trans inclusive practice.

Education settings are reminded that, whenever significant changes to policies are made, due regard must be given to the equality implications of decision-making (See section 3 and Appendix 3) and safeguarding procedures must be followed.

This guide does not cover all possible scenarios. Settings and schools are encouraged to seek further advice if needed, from Vale of Glamorgan Council Learning & Skills Safeguarding Officer.

1.4 Underlying principles and messages in the toolkit

- Education settings should continue to develop effective equality and anti-bullying policies and practices across all protected characteristics of the Equality Act 2010 and in line with the values and ethos of the setting

- Diversity [recognition of diversity] in education setting provides children and young people with opportunities to learn about, and prepares them for, life in modern Britain. The prevention of gender stereotyping, sexism, homophobia and biphobia is central to reducing and preventing transphobia

- Transphobia and bullying can contribute to poor mental health outcomes for trans children and young people (see Appendix 2)

- There is more than one way to be a boy or a girl

- Identities are developing throughout childhood and adolescence and into adulthood, and some children and young people may explore and express their gender identities in different ways. This can start from a young age and may change over time

- Children and young people should be able to explore their identities, be accepted and change their minds.

- Support for individual trans children and young people should be provided on a case-by- case basis in discussion with them, their family and relevant professionals

- Members of the education setting may need support in developing an understanding of trans and non-binary identities and experiences and education settings need to consider how to provide/ ensure such support and ensure the safety of all

- Decisions about medical transition are made outside of education settings and the NHS.

2 Developing understanding of trans, non-binary and gender exploring children and young people

2.1 Introduction to terms

This section provides an overview of key concepts and terminology used in this toolkit.

Language is constantly changing and not everyone agrees with the definitions used here. This section will be regularly reviewed.

Identity is personal and individual and may be subject to change. The umbrella terms 'trans' and 'non-binary' are generally accepted, but pupils and students should be allowed to self-describe. Some children and young people feel that they have a gender different from their sex registered at birth. Gender identity refers to an internal sense of a gendered self, for example whether a person feels they are a boy, a girl, both or neither.

Sex is normally registered at birth based on the external genitalia of a child, but is also used to refer to chromosomes as well as hormones and secondary sex characteristics that won't become apparent until the child is older. Hormone levels, genitalia and secondary sex characteristics change throughout a course of a person's lifetime, and some trans people use medical intervention to seek to reconcile their hormone levels, genitalia and/or secondary sex characteristics with their gender identity.

2.2 Key definitions

Gender dysphoria

Gender dysphoria is a term that describes a sense of unease that a person may have because of a mismatch between their biological sex and their gender identity. This sense

of unease or dissatisfaction may be so intense it can lead to depression and anxiety and have a harmful impact on daily life[6].

Gender and gender identity

The World Health Organisation states that:

> Gender refers to the socially constructed characteristics of women and men – such as the norms, roles and relations of and between groups of women and men. Gender norms, roles and relations vary from society to society and evolve over time. They are often upheld and reproduced in the values, legislation, education systems, religion, media and other institutions of the society in which they exist. When individuals or groups do not "fit" established gender norms they often face stigma, discriminatory practices or social exclusion – all of which adversely affect health. Gender is also hierarchical and often reflects unequal relations of power, producing inequalities that intersect with other social and economic inequalities.

> Gender interacts with but is different from sex. The two terms are distinct and should not be used interchangeably. It can be helpful to think of sex as a biological characteristic and gender as a social construct. Sex refers to a set of biological attributes in humans and animals. Sex is mainly associated with physical and physiological features including chromosomes, gene expression, hormone level and function, and reproductive and sexual anatomy.

> Gender identity refers to a person's innate, deeply felt internal and individual experience of gender, which may or may not correspond to the person's physiology or designated sex at birth.[7]

The Office for National Statistics states that:

- … gender identity is a personal, internal perception of oneself and so the gender category someone identifies with may not match the sex they were assigned at birth
- where an individual may see themselves as a man, a woman, as having no gender, or as having a non-binary gender – where people identify as somewhere on a spectrum between man and woman[8]

Cisgender or cis

Someone whose gender identity is the same as the sex they were registered at birth. The term "non-trans" is also used by some people.[9]

Gender expression

The World Health Organisation states that:

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[6] NHS Gender dysphoria - NHS (www.nhs.uk) (Retrieved 9.12.20)

[7] WHO, *Gender and Health*, https://www.who.int/news-room/questions-and-answers/item/gender-and-health (Retrieved 6.7.22).

[8] Office for National Statistics https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21 (Retrieved 14.5.2020)

[9] Stonewall https://www.stonewall.org.uk/help-advice/glossary-terms (Retrieved 14.5.20)

Gender expression refers to how an individual expresses their gender identity, including dress and speech. Gender expression is not always indicative of gender identity.[10]

A person who does not conform to societal expectations of gender may not identify as trans.[11]

It is very common for children to experiment and explore through dressing up. Many children will 'dress up' in clothes which are seen as stereotypically intended for a different gender and this alone would not mean they were trans. Outside the context of dressing up, a boy wearing a dress may be engaged in gender expression without signifying that he is trans. Schools can play a part in normalising, for example, boys having long hair or wearing jewellery without assumptions that they are gay or trans.

Any prejudice expressed to a child, young person or adult because of their gender expression (for example, what they are wearing) or because they are gender non-conforming should be challenged.

Gender stereotypes

The UN High Commissioner for Human Rights explains that 'Gender stereotyping refers to the practice of attributing to an individual woman or man specific attributes, characteristics, or roles by reason only of her or his membership in the social group of women or men".[12]
Gender stereotyping becomes harmful when it limits an individual's capacity to develop, make choices and pursue careers outside of a stereotype.

The wellbeing of boys and girls can be harmed by stereotyping[13]. All education settings will want to prevent and challenge gender stereotypes and give the message that there are many ways to be a girl or a boy. This approach will be of benefit to the wellbeing and aspirations of all children and young people and contribute to reducing and preventing sexism, homophobia, biphobia and transphobia. This work will also benefit trans and non-binary children and young people as unrealistic expectations about what it means to be a man, woman, boy or girl in society can do harm to those who don't conform to the gendered expectations placed on them.

Intersex or differences in sex development (DSD)

"Intersex people are individuals whose anatomy or physiology differ from contemporary cultural stereotypes of what constitute typical male and female"[14]. "Differences in sex development (DSD) is a group of rare conditions involving genes, hormones

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[10] WHO, *Gender and Health*, https://www.who.int/news-room/questions-and-answers/item/gender-and-health (Retrieved 6.7.22).

[11] Stonewall Glossary https://www.stonewall.org.uk/help-advice/faqs-and-glossary/glossary-terms (Retrieved 29.7.2020)

[12] https://www.ohchr.org/en/women/gender-stereotyping, retrieved 6.7.22.

[13] The Children's Society How gender roles and stereotypes affect young people https://www.childrenssociety.org.uk/what-we-do/blogs/how-gender-roles-affect-young-people (Retrieved 2.12.20)

[14] The UK Intersex Association http://www.ukia.co.uk/about.html (Retrieved 4.12.20)

and reproductive orders, including genitals. It means a person's sex development is different to most other people's"[15].

Non-binary

"An umbrella term for people whose gender identity doesn't sit comfortably within 'man' or 'woman'. Non-binary genders and identities are varied and can include people who identify with some aspects of binary identities, while others exist outside of those categories entirely."[16] Non-binary people may use the pronoun 'they' but may also use 'he', 'she' or another pronoun. Pronouns do not necessarily correlate with gender, for example a person may have a non-binary gender but use 'he' or 'she' pronouns.

Orientation

"Orientation is an umbrella term describing a person's attraction to other people. This attraction may be sexual (sexual orientation) and or romantic (romantic orientation). These terms refer to a person's sense of identity based on their attractions, or lack thereof."[17] Trans people, like everyone else, can have a range of sexual orientations.

Sex

The Office for National Statistics states that the UK government defines sex as:
- referring to the biological aspects of an individual as determined by their anatomy, which is produced by their chromosomes, hormones and their interactions
- generally male or female
- something that is assigned at birth[18].

Trans

A term for people whose "gender identity is different from the sex assigned at birth"[19] including those who identify as:

- transgender
- gender queer
- gender fluid
- non-binary
- both male and female (this may be at the same time or over time)
- neither male nor female
- a third gender
- or who have a gender identity which we do not yet have words to describe.

Many cultures across the world have a different gender system to the western world. A person who identifies as a gender from within their culture that does not exist within UK culture may not identify as trans, although others might.

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[15] NHS Differences in sex development - NHS (www.nhs.uk)

[16] Stonewall https://www.stonewall.org.uk/help-advice/glossary-terms (Retrieved 14.5.20)

[17] Stonewall https://www.stonewall.org.uk/help-advice/glossary-terms (Retrieved 14.5.20)

[18] Office for National Statistics
https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21
(Retrieved 14.5.2020)

[19] Office for National Statistics
https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21
(Retrieved 14.5.2020)

Trans boy or man

A person registered female at birth and whose gender identity is that of a boy or a man.

Trans girl or woman

A person registered male at birth and whose gender identity is that of a girl or woman.

Transition

"The steps a trans person may take to live in the gender with which they identify. Each person's transition will involve different things. Transitioning might involve things such as telling friends and family, dressing differently and changing official documents."[20] For some it may also involve medical intervention, such as puberty blockers, hormone therapy and surgeries, but not all trans people want or are able to have this. A young trans person cannot have surgery in the UK until they are an adult.

To remember

- Language is subject to change over time

- Individuals should be allowed to self-describe

- Children and young people will explore their identity and gender expression in a range of ways; this does not necessarily mean they are trans

- Gender identity, sexual orientation and gender expression are all spectrums, and all describe different things

- 'Social Transition', is considered to be an active intervention ('the Cass Review') and "may have significant effects on the child or young person in terms of their psychological functioning. There are different views on the benefits versus the harms of early social transition. Whatever position is taken it is important to acknowledge that it is not a neutral act, and better information is needed about outcomes."

3 Legal context and ESTYN framework

3.1 Equality Act, 2010

Gender reassignment is defined by the Equality Act as follows:

> A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological

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[20] Stonewall https://www.stonewall.org.uk/help-advice/glossary-terms (Retrieved 14.5.20)

or other attributes of sex. [21]

The Equality Act 2010 provides protection from direct and indirect discrimination in respect of the protected characteristic of 'gender reassignment' and the similar protection to following protected characteristics:

- age (for staff only)
- disability
- marriage and civil partnership (for staff only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation[22]

Decision makers in schools must be aware of the duty to have "due regard" to various equality-related needs when adopting policies and making decisions. These needs are the needs to (a) eliminate discrimination, harassment, etc; (b) advance equality of opportunity; and (c) foster good relations between those who do and do not share protected characteristics.[23] Compliance with this duty requires that, where appropriate, decision makers consider the potential implications of their decisions for groups defined by reference to the protected characteristics. Schools should consider the equality implications of their decisions when developing policy and taking decisions, not as an afterthought, and these implications should be kept under review.

Vale of Glamorgan Council highly recommends that education settings keep a written record of decision-making in relation to policies. See Appendix 5 for an example tool for providing a written record and contact the Learning & Skills Directorate Safeguarding Team for further advice or training on considering equality implications.

The Equality Act 2010 "allows providers to offer single-sex services that exclude transgender people if it is proportionate to do so and it achieves a legitimate aim"[24]. Please see section 6 for more on single-sex spaces in schools.

The Equality Act provides that:

> A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.[25]

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[21] Section 7 of the Equality Act https://www.legislation.gov.uk/ukpga/2010/15/section/7 (Retrieved 19.5.20)

[22] Note that the Equality Act does not prohibit harassment of students (as distinct from staff) because of religion or belief or sexual orientation. Some such harassment will however amount to direct discrimination and be prohibited as such.

[23] Section 149 of the Equality Act https://www.legislation.gov.uk/ukpga/2010/15/section/149 (Retrieved 13.10.22)

[24] House of Commons Library Research Briefing, 2020 https://commonslibrary.parliament.uk/research-briefings/cbp-8969/

[25] Section 7 of the Equality Act https://www.legislation.gov.uk/ukpga/2010/15/section/7 (Retrieved 19.5.20)

Not everyone who identifies as "trans" will have the protected characteristic of gender reassignment which implies a transition (whether physical or otherwise) from male to female, or vice versa.

Direct discrimination occurs when a person is treated less favourably because of a protected characteristic. This might happen where (for example) a boy is refused access to a girls' soccer team. The same is true where a trans girl is refused access to a girls' soccer team because she is not recognised as a girl. The Equality Act permits some sex discrimination. Whether or not such discrimination is lawful will depend on the needs and interests of the girls in the soccer team as well as those of the boy or trans girl who wishes to access it, and failure to take their interests into account may result in sex discrimination against those girls.

Indirect discrimination occurs where the same rule is applied to all but has a disparate impact on people in some groups defined by reference to protected characteristics, unless the rule is proportionate to a legitimate aim. Refusing boys and trans girls access to a girls only soccer team will have a disparate impact on trans girls (who are more likely to want to play in the team). As above, whether disparately impacting treatment is lawful will depend on the needs and interests of the girls in the soccer team as well as those of the boy or trans girl who wishes to access it, and failure to take their interests into account may result in sex discrimination against those girls.

The Equality Act 2010 also protects against harassment related to protected characteristics (though not, in the case of pupils, harassment related to religion, belief or sexual harassment). Harassment occurs where a person is subjected to unwanted conduct whose purpose or effect is to violate their dignity or to create an intimidating, hostile, degrading, humiliating or offensive environment for them.

It should be noted that the Equality Act 2010 lists "belief" as a protected characteristic. This has implications for the extent to which pupils, in particular, may be required or expected to "affirm" trans pupils' gender identity. In addition, the Human Rights Act 1998 gives effect in the UK to the European Convention on Human Rights, Article 9 of which protects freedom of religion and belief and Article 10 of which protects freedom of expression. Schools are public authorities for the purposes of the 1998 Act and must act consistently with the Convention provisions. These matters are further discussed below.

Finally, as regards the Equality Act 2010, the Act imposes a duty on public authorities including schools to pay "due regard" to the need to (a) eliminate discrimination and harassment; (b) advance equality of opportunity; and (c) foster good relations between those who do and do not share protected characteristics.[26] Compliance with this duty (referred to as the "Public Sector Equality Duty" or "PSED") requires that decision makers consider the potential equality implications of policies and significant decisions when developing policy and taking decisions, not as an afterthought. Education setting should keep a record of their decision making, including their consideration of equality implications, and should keep the implications of policies and significant decisions under review. See Appendix 5 for an example tool for providing a written record and contact the Learning & Skills Directorate Safeguarding Team for further advice or training on the PSED.

Information on the PSED and associated specific duties imposed on Welsh public authorities, and on the United Nations Convention on the Rights of the Child, can be found in Appendix 4.

3.2 Estyn guidance

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[26] Section 149 of the Equality Act https://www.legislation.gov.uk/ukpga/2010/15/section/149 (Retrieved 13.10.22)

Estyn has produced "Celebrating diversity and promoting inclusion: Good practice in supporting lesbian, gay, bisexual and transgender (LGBT) learners in schools and colleges", October 2020.

The guide comments specifically on how schools can take into account the needs of trans learners, as follows:

In schools and colleges that are sensitive to the needs of transgender learners, staff liaise well with parents and carers to address the challenges they face and modify provision where needed. In most schools, staff reassure parents of transgender pupils that they will act to tackle discrimination against their children and that they will not tolerate homophobic, biphobic and transphobic bullying. However, only a small proportion of schools are truly effective in addressing this issue and, in too many cases, bullying of transgender pupils impacts negatively on their school experience. In a majority of secondary schools and colleges, leaders consider how sex or gender-specific features and facilities, such as toilets, changing rooms and school uniform requirements, impact on the lives of transgender learners. In the best cases, leaders do not make assumptions about their needs, but work with them sensitively to adapt provision and ensure that they can access the most appropriate facilities given their needs and the nature of the school or college building. Effective leaders recognise that there are no standard or simple solutions to these challenges, and there is a need for dialogue with all involved.

Often, schools and colleges are limited as to the physical changes they can make to facilities because of the limitations of the building and available budgets. In the best cases, where they are making changes to their facilities or planning a new build, they consult with all learners including any LGBT groups to consider their opinions. However, too frequently when considering the construction of new buildings, schools and colleges do not consider provision for transgender learners well enough.

Where the situation arises, schools and colleges work well with external agencies to support learners who wish to transition by providing them with time off and allowing them to catch up with any work they have missed. The most effective schools and colleges respond flexibly to the needs of the learners and understand that the transition journey is unique to each individual young person. In these cases, they work well with pupils, learners and their parents to plan the transition process. They communicate this to other members of the school or college community sensitively. This eases the transition journey and reduces instances of transphobic bullying.

Most schools and colleges with transgender pupils work closely with them to ensure that staff and learners respect the name and pronouns with which they have chosen. In the best cases, schools and colleges place a high priority on ensuring that they use their preferred names on management information systems, awards and certificates. However, in many cases, providers face challenges arising from the inflexibility of electronic systems to modify pupils' gender. Frequently, schools and colleges are reluctant to change pupils' or learners' gender through fear of legal implications.

Many schools and colleges with transgender learners recognise that they may want to alter how they dress to

reflect their gender identity and a few schools now ensure that all approved uniform items are available to all young people, whichever sex or gender they associate with most closely. Recent Welsh Government statutory guidance provides clear instructions for governing bodies on the contents of their school uniform policy.

Many schools and colleges allow transgender learners to participate in team sports with the gender with which they identify, unless there are specific safety concerns that prevent this from occurring. On residential trips, schools and colleges work sensitively with all parties to consider sleeping arrangements. In the case of overseas trips, staff consider carefully the possible implications of official documentation, such as passports, not matching the pupil or learner's self-identified gender and the legal protection available in the destination country to learners who are lesbian, gay, bisexual or transgender. In the best cases, primary and secondary schools work together closely to ensure that pupils make a successful transition from primary to secondary school. Here, effective communication between primary and secondary schools and continued consultation with pupils and parents is essential to avoid any negative impact on pupil wellbeing. However, in too many cases, the move to secondary education for transgender pupils impacts negatively on their wellbeing as a result of inadequate support for the process.

The guidance also contains useful 'Self-evaluation questions to support LGBT inclusion' in its Appendix 1

3.3 The Equality Act 2010 & trans pupils and students in Vale of Glamorgan education settings

Whether or not non-binary students fall within the protected characteristic of "gender reassignment",[27] they (like other pupils) are entitled to protection from all forms of bullying. They will also be protected from discrimination on the basis of their perceived gender reassignment, and/or their association with others. The Department for Education's *Equality Act 2010: advice for schools* provides that:

> Schools need to make sure that all gender variant pupils, or the children of transgender parents, are not singled out for different and less favourable treatment from that given to other pupils. They should check that there are no practices which could result in unfair, less favourable treatment of such pupils.[28]

3.4 Safeguarding

Safeguarding the mental and physical health of children and young people is paramount. Some trans and non-binary children and young people may be particularly vulnerable and may require additional support.

Keeping Learners Safe (gov.wales) highlights how emotional abuse that "may involve serious bullying" is a safeguarding issue. The higher prevalence of bullying which is likely to be experienced by trans and gender exploring children and young people, outlined in Appendix 2, means that tackling transphobic bullying should be a high priority for all schools and education settings.

There are no provisions in child protection and safeguarding legislation specific to trans, non-binary or gender exploring children or young people aside from what is in place to keep all pupils and students safe. Settings should follow their usual safeguarding policies

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[27] An employment tribunal suggested in *Taylor v Jaguar Land Rover Ltd*, 1304471/2018 that the protected characteristic of gender reassignment extends to non-binary people but it is not clear that this is consistent with the statutory language and the tribunal's decision does not create binding precedent.

[28] Equality Act; Advice for Schools (2018) p17 https://www.gov.uk/government/publications/equality-act-2010-advice-for-schools (Retrieved 13.10.22)

remembering that being trans is not in itself a safeguarding issue. All schools should follow the _Keeping Learners Safe_ 2022 statutory safeguarding guidance.[29]

3.5 Confidentiality and information sharing

When a child or young person initially discloses their trans or gender exploring status, it is important to talk to them about confidentiality and who, if anyone, they would like information to be shared with. The member of staff should make clear that they will need to share the information with at least one other member of trained staff and then discuss who else will be told from there. In line with pastoral policies it would be good practice to keep a record of support provided to gender exploring, trans and non-binary children and young people.

Difficulties will arise for schools where a child who wants to make a social transition at school does not wish their parents to be consulted or notified. As was pointed out in the interim Cass Report, social transitioning is not a neutral act because it may have significant psychological implications for a child. This being the case, the school will have to determine whether the child is _Gillick_ competent to make such a decision. _Gillick_ competence is decision-specific and it will be necessary to consider whether the child has the necessary maturity and understanding to decide to transition socially, taking into account the possible repercussions of that decision. A school which is faced with such a case ought to consider seeking professional advice.

Most parents and carers of trans children and young people will be involved in working in partnership with the school and their child to appropriately plan and deliver support (see section 5). Settings will encourage pupils and students to talk with their parents and carers about their trans or gender exploring status, including offering to talk with the parent or carer on the child's behalf.

Leaving aside cases involving communication with parents, information about a child or young person's trans status, legal name, or sex registered at birth should not be shared without permission or unless there is a legally permissible reason to do so. Education settings should follow their usual policies related to information sharing to support the wellbeing of a child or young person.

In keeping with safeguarding policies, confidentiality should only be breached to safeguard a child or young person. A child or young person being lesbian, gay, bisexual, trans or exploring their gender identity does not in itself constitute a safeguarding concern, nor is it something the child's parents or carers must necessarily be informed of.

Consideration will be given to notifying the LADO (Local Authority Designated Officer) in any case where schools are intending to support children/young people (dependent upon the child/young persons age) with social transition where there is no parental involvement in view of the likely impact of social transitioning on subsequent developments.

It is important to consider school and college photos and websites to ensure that these images do not reveal any confidential information. If images and names are not protected, they may be used later in the trans person's life to 'out' them as trans. Ensure that all child or young people (and their parents and carers if appropriate) are aware of these risks and consent accordingly. Under General Data Project Regulations (GDPR) individuals also have the right to have personal data removed.

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[29] https://gov.wales/sites/default/files/publications/2022-04/220401-keeping-learners-safe.pdf

All people, including children and young people, have a right to privacy. Staff should not discuss trans or gender exploring children and young people outside of school with friends or family members. The trans community is such a small one that even a casual reference to a child or young person may compromise confidentiality.

3.6 General Data Protection Regulation (GDPR)

Schools and education settings are required to comply with the GDPR in respect of all children and young people (as "data subjects") and personally identifiable information relating to individuals. They will be aware of the regulations in relation to processing and sharing of personal data. Such data includes any information that can identify a person or their family and this sort of data remains "personal" even if an individual chooses to publicise it.

Under GDPR Article 9, 'special category data' relates to more sensitive topics which may pose a significant risk to people's privacy and which can only be processed under certain conditions.

'Special category data' includes personal data which concerns physical or mental health or sexual orientation. This guide from the UK Information Commissioner's Officer (ICO) provides further information on this data.

The GDPR does not necessarily prevent processing or sharing of personal information, but requires that there is a specific and limited purpose for doing so, that the data used is proportionate to that purpose and that it is stored and shared securely. Special category data is subject to additional controls. The ICO provides helpful guidance on this area. It is vital that anyone who is considering sharing sensitive personal information about a pupil or student is aware of, and/or takes appropriate advice on, the legal implications of so doing.

3.7 ESTYN Education Inspection Framework

Under the ESTYN Education Inspection Framework:

> Inspectors will assess the extent to which the school or provider complies with relevant legal duties as set out in the Equality Act 2010 and the Human Rights Act 1998 promotes equality of opportunity and takes positive steps to prevent any form of discrimination, either direct or indirect, against those with protected characteristics in all aspects of their work.[30]

Inspectors will make a judgement on behaviour and attitudes by evaluating the
extent to which:
- Leaders, teachers and learners create an environment where bullying, peer-on-peer abuse or discrimination are not tolerated.[31]

Additionally, guidance which makes clear that safeguarding action may be needed to protect children and learners from (for example):
- physical abuse

- sexual abuse

- emotional abuse

- bullying, including online bullying and prejudice-based bullying

- racist, disability and homophobic or transphobic abuse

- gender-based violence/violence against women and girls

- sexual harassment, online sexual abuse and sexual violence between children and learners[32]

To remember

Work to prevent transphobia and support trans children and young people is supported by ESTYN, statutory safeguarding duties and the Equality Act 2010.

4 A Whole Setting Approach

4.1 Introduction

Many Vale of Glamorgan education settings are already working to ensure that the school environment and curriculum celebrates similarity, difference and diversity such that all children and young people see themselves and their families represented and valued. This Toolkit provides guidance on how to ensure trans members of the community feel equally welcomed, represented and safe. Education settings are skilled in supporting vulnerable pupils and students and this practice can be used to inform support provided to trans children and young people.

If a whole setting approach is taken then harmful bullying and harassment of trans pupils, students and staff in the school community will be prevented or minimised and all pupils and students prepared for life in the modern world.

For specific guidance on creating safe learning environments for other groups protected under the Equality Act 2010 contact Learning & Skills Directorate Safeguarding Team

4.2 Role of Governors

The governing body has responsibilities under the Equality Act 2010 and for safeguarding, as described in *Keeping Learners Safe* 2022[33]. It is recommended that at least one member of the governing body has attended trans awareness training and has read this toolkit. The governing body could ask questions such as the following in governor meetings:

- Can we see data on bullying and prejudice-based incidents by type?

- What is being done to challenge gender stereotypes?

- What changes have been made to policies and practice to support the needs of gender exploring, trans and non-binary children and young people? Have these changes been through an equality impact assessment?

- What are we doing to keep parents and carers updated on our equality practice?

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[33] https://gov.wales/sites/default/files/publications/2022-04/220401-keeping-learners-safe.pdf

4.3 Staff training

All staff need to be provided with training which develops trans awareness and confidence in terminology and vocabulary e.g. appropriate use of pronouns and names, and in challenging gender stereotypes, sexism and transphobia. Staff working with individual trans and gender exploring children and young people will need additional, specialist training to provide pastoral support.
PSHE teachers will need support in delivering trans awareness sessions and managing discussion.

It is recommended that training is provided to take into account staff changes.

4.4 Parent and carer community

It is hoped that education settings will have positive relationships with all groups of parents and carers and will be using a range of methods to break down any barriers to enable open and transparent conversations about equality practice. All parents and carers should feel that their child(ren) and family are represented within the setting.

Education settings will want to communicate the work they are doing to support trans inclusion to parents and carers in the context of other equality work. For example, when explaining work for LGBT History settings may want to use language such as: 'As part of our work to promote our school value of respect we are…'; or: 'As part of our ongoing commitment to improving equality and prevent bullying we are…'.

Settings may also want to signpost from their website to where parents and carers can go to find out more about trans and non-binary identities. Parents and carers often report that their children and young people are more aware of these issues than they are.

Settings may find they are approached by parents and carers about their trans inclusive practice. Settings can listen openly and respectfully to any questions or concerns, provide information that does not break confidentiality of trans or non-binary individuals and offer the following kinds of reassurance:

- The setting acknowledges there are a diversity of views about trans inclusion and will listen respectfully to concerns

- The setting is working within local authority guidance and the Equality Act 2010 to prevent and respond to all forms and bullying and prejudice and to ensure all children and young people feel safe to learn

- The setting is preparing children and young people for life in modern Britain where they are going to meet and work alongside a range of people

- The setting is working to develop its equality practice across all protected groups and efforts are being made to ensure all groups feel safe, represented and included.

Any complaints made will follow a school complaints policy. Education settings can contact the local authority about concerns raised by members of the school community.

4.5 Policy Framework

Education settings will want to ensure that all relevant policies appropriately reference trans pupils and students and that there is

reference, where appropriate, to intersectional issues. Some examples of how to do this are identified in Appendix 8, but this is not an exhaustive list.

In Appendix 9 you will find a document that could be adapted and used as a summary of your school's approach to trans inclusion.

4.6 Transphobic and sexual bullying and harassment

For definitions of bullying, prejudice and scripts for challenging prejudice please see Appendix 4. Education settings may also want to be mindful about how so-called 'banter' or jokes are used in peer groups and can cause harm.

Education settings should ensure that they identify, record, respond to and monitor all forms of bullying and prejudice incidents.

Recording of incidents means that the wellbeing of individual pupils and students can be tracked as can the behaviours of perpetrators. This data along with data from school surveys can also be used to target preventative interventions and measure the impact of activities.

Trans, non-binary and gender exploring children and young people are vulnerable to bullying, as is any child or young person who does not conform to gender norms, and stereotypes. Additionally, children and young people with trans family members may also be transphobically bullied. Transphobic bullying therefore may be perpetrated by pupils, students, parents, carers or staff members and directed at:

- Children, young people and adults who do not conform to gender stereotypes or are perceived to be trans

- Trans children, young people and adults inside and outside the school community

- Children and young people with trans siblings, parents, relatives or friends

- Lesbian, gay and bisexual children, young people and adults.

As a key preventative measure for transphobic bullying, settings should ensure that the curriculum, assemblies and displays are used to prevent and challenge gender stereotypes and sexism. One of the reasons why gender stereotyping is harmful is because it suggests that boys and girls should present themselves in certain ways, and that failure to comply with gender stereotyping may lead to bullying and harassment.

Keeping Learners Safe 2022 has a strong emphasis on preventing and responding to peer-on-peer abuse and recognises the gendered nature of some forms of abuse in schools. Education settings may also find useful the recent publication of the Estyn report December 2021 (*Experiences of peer-on-peer sexual harassment among secondary school pupils in Wales - Supporting resources* (gov.wales), along with the Welsh Government's response and recommendations January 2022[34].

Identifying the nature of any bullying will assist the school to understand and then address any trends in the school community. Sexist, sexual or transphobic bullying are not the same as homophobic or biphobic bullying. However, sexist attitudes often manifest themselves in homophobic bullying as any child or young person who is perceived as not expressing stereotypically masculine or feminine traits expected of them might experience homophobic or transphobic bullying.

Staff will need to use their professional judgement as to whether some incidents should be recorded as homophobic or transphobic but should take care not to under-record transphobic bullying.

Transphobic bullying may also occur in conjunction with other forms of bullying, including that related to special educational needs and disabilities or cyberbullying. Trans and

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[34] https://gov.wales/incidence-peer-peer-sexual-harassment-among-secondary-school-pupils-wales-government-response-html

gender exploring pupils and students may be particularly targeted with behaviours such as 'skirt lifting', 'groping' or being asked inappropriate, personal questions. Again, educational settings should be vigilant in preventing and responding to all forms of sexual harassment and bullying.

If a transphobic incident occurs in a group situation and the member of staff dealing with it is aware that the child or young person is trans but they are not 'out' to the rest of the community, the member of staff must challenge the prejudice but may need to take care not to label the incident as transphobic in front of other pupils and students, which would 'out' the person being targeted. The incident would still be recorded as a transphobic incident.

There may be occasions where transphobic bullying has wider safeguarding implications, or involve criminal behaviour; in these cases educational settings need to engage the appropriate safeguarding agencies and or the police.

4.7 Language

It is important for all children and young people that staff are thoughtful about the use of gendered terms. For example, using terms such as 'ladies' and 'gents' may reinforce certain stereotypical ideas of femaleness or maleness. Equally asking for two strong boys to move a piece of classroom furniture implies that girls cannot be physically strong.

In addition, care needs to be taken to avoid excluding those who do not identify as male or female (e.g. who are non-binary), and not to make assumptions about someone's gender identity based on their gender expression. The Vale of Glamorgan supports schools to consider using language which does not reinforce a binary approach to gender particularly when the gender of a person or people being referred to is not known. A trans boy who is referred to as a girl or a trans girl who is called a boy and non-binary students will feel excluded by this language. Settings can develop a repertoire of gender-neutral language, and the use of pronouns that reflects their community, including words such as learners, Year 8, folks, partner, all genders [everyone?] etc. and use when appropriate.

The purpose of this thoughtful use of language is not to deny sex and gender as important parts of identity, in fact we need to use binary language to talk about sexism, sexual harassment and sex specific life experiences. Equally, it may be appropriate to use sex-specific language such as 'mum', 'grandma' or 'him when referring to someone specific whose sex/gender is known.

4.8 Curriculum

Relationships and Sexuality Education (RSE) and Curriculum for Wales

RSE is a statutory requirement in the Curriculum for Wales framework and is mandatory for all learners from ages 3 - 16.

The Curriculum for Wales guidance sets out the legal status of RSE in the framework and identifies the legislative duties of schools and settings in terms of the development of and curriculum planning for RSE. [35]

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[35] https://hwb.gov.wales/curriculum-for-wales/summary-of-legislation/#relationships-and-sexualityeducation

> ℹ️ RSE is a mandatory element of the Curriculum for Wales Framework and a curriculum must accord with the RSE Code. This means schools and settings must include the learning set out in the Code. A curriculum does not encompass RSE unless it accords with the provision in the RSE Code. Learning and teaching also does not encompass the mandatory element of RSE unless it accords with the provision in the RSE Code.
>
> The RSE Code is set out and signposted in the **RSE section** of the Framework guidance.
>
> This Code is issued under section 8 of the Act.

The RSE Code sets out the themes that must be encompassed in a school's RSE curriculum. It consists of three inter-linking strands:
- relationships and identity
- sexual health and well-being
- empowerment, safety and respect

The Curriculum and Assessment (Wales) Act 2021 requires that a school or setting's RSE must be developmentally appropriate. To support practitioners in this, the RSE guidance sets out phases within each of the strands that allow practitioners to decide if learning is developmentally appropriate.

As well as having strong links with learning and experiences within the health and well-being Area, RSE is also a cross-cutting theme, which means that schools and practitioners must have a methodology for designing their curriculum that allows learners to develop, where appropriate, their understanding of RSE through a whole-school approach which should include learning and experiences in each Area. The 'designing your curriculum' section within each Area's guidance includes support on how each Area can contribute toward authentic RSE learning.

Inclusivity, including LGBTQ+ inclusivity
In keeping with the mandatory requirements of the RSE code, teaching and learning should be inclusive, and in line with the principles of equality. This helps ensure that all learners can see themselves, their communities and families reflected across the curriculum, and can begin to value difference and diversity as a source of strength. This includes gender equity and LGBTQ+ inclusivity.

In terms of what this means for schools the following questions will be useful to consider:

- How well does the curriculum incorporate developmentally appropriate discussion of LGBTQ+ issues? Deciding when to introduce teaching and learning about what LGBTQ+ and the terms within the acronym mean, lies with schools and should reflect when they think it is developmentally appropriate to introduce it to their learners. The statutory guidance states that this needs to be responsive to learners' needs, their experiences and their developing knowledge.
- Do learners experience positive LGBTQ+ role models through the curriculum?
- Do the resources you use provide a range of different, diverse and inclusive examples of individuals, identities, families, relationships, race, ethnicity?
- Are the resources used to teach learners about the different types of families inclusive of the range of families within the school, the community, society etc. (this

isn't just about same-sex families but also families headed by grandparents, single parents, adoptive parents, families from different faiths etc.). This helps to develop learners' understanding of diversity, equity, tolerance, respect and rights in ensuring the fair treatment for all. It also encourages acceptance of difference, challenges discriminatory behaviours and supports much of the learning and key ideas within the empowerment, safety and respect strand.

- Do pupils of all ages have access to a diverse range of resources including those that show stereotypical and non-stereotypical gender expressions, masculine girls and feminine boys, trans and non-binary people and men and women in a wide range of careers?
- Do displays around the school challenge gender stereotypes, actively celebrate different families and LGBTQ+ people?
- Do pupils have the opportunity to participate in events that address LGBTQ+ issues and celebrate diversity? School could make use of events such as LGBT History Month (February), International Trans Day of Visibility (31March), LGBTQ+ Pride month (June) and Trans Awareness Week (November) as opportunities for further work.
- To what extent do schools draw on the views of learners, including LGBTQ+ pupils, to influence curriculum design?

How can we make RSE more inclusive for trans pupils?

- Ensure that gender neutral and inclusive language is used. For example, when talking about relationships use terms such as 'partner' rather than, or as well as, 'boyfriend or girlfriend'. When discussing families, use 'grown up' rather than, or as well as, 'mum or dad'. When talking specifically about known family members or relationships, gender specific language is appropriate.

- Use gender-neutral names when designing some case studies, scenarios or characters

- Represent trans and non-binary people in scenarios and resources used.

- Start any teaching around puberty and bodies by highlighting that all people's bodies and genitals are different and that there will be a diverse range of responses to puberty.

- When labelling the genitals consider stating that most, rather than all, boys have a penis and testicles and most, rather than all, girls have a vulva and vagina.

- Present sexual health information with an awareness that trans young people may feel that their body does not sit comfortably with their gender identity.

- If you know you have a trans pupil in the class, some pre-planning and one-to-one support may be necessary to ensure the learner gets the information they need in a way that feels supportive to their gender identity.

Supporting learners' needs

Some teaching and learning approaches may make trans children and young people feel confused, excluded or uncomfortable. Putting children and young people into single sex groups may have this effect. There may be times when single sex groups are needed, including for aspects of relationship and sex education or to support the learning needs of groups (e.g. boys and literacy). Providing a clear need is identified, the Equality Act 2010 allows for such provision.[36] However, it is recommended that school staff only group by

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[36] Equality Act; Advice for Schools (2018) p17 https://www.gov.uk/government/publications/equality-act-2010-advice-for-schools (Retrieved 13.10.22)

sex when it is educationally appropriate. Speak to the trans child or young person in advance and decide whether any additional support is needed.

Resources

Many resources are available online that provide schools with advice about how to go about creating a LGBT+ inclusive curriculum. As a local authority, we don't particularly endorse any specific resources. Much of the resources available relate to the Relationships, Sex and Health Education curriculum (RSHE) in England although there are many areas of cross-over with the RSE Code.

https://www.stonewall.org.uk/best-practice-toolkits-and-resources-0
https://www.theschoolrun.com/learning-about-lgbt-issues-primary-schools
https://healthyschoolscp.org.uk/pshe/lgbt/

There are many more resources available on HWB, on all aspects of RSE:
Repository - Hwb (gov.wales) including a four page guide summarising the changes to RSE which could be helpful for parents. In addition, resources are also available on the Central South Consortium (CSC) website Repository - CSC (cscjes.org.uk), including case studies and example activities to support the development of the RSE framework within schools.

To remember

- Many schools have existing good practice that promotes equality and supports the needs of individual children and young people
- Trans inclusion should be referenced across the policy framework
- Schools should challenge, record and monitor all incidents of bullying and prejudice by type
- The curriculum and particularly PSHE can be used to develop understanding of family diversity, sexual orientation, gender stereotyping and gender identity and to prevent sexism, homophobia, biphobia and transphobia

5 Supporting the individual trans, non-binary or gender exploring child or young person

5.1 An individualised approach to support

There is not a one-size-fits-all approach in supporting a trans, non-binary or gender exploring child or young person. Allocating a key member of staff, as would be done for any other vulnerable pupil or student, is an important first step.

It is vital that each child and young person is met with the kindness, compassion and support needed to keep them and their peers safe and well. There may be additional challenges for trans and non-binary pupils and students from certain faith or cultural backgrounds or who have a special educational need or disability. It is important for education settings take into account, as far as possible, all aspects of a child's identity and experience in considering how to best support and respond to the child. Each journey will be unique.

Non-binary children and young people

Certain sections of this guidance refer to binary trans children and young people, however the principles of this toolkit and the sections related to pronoun change, dress, curriculum

and gender stereotyping are relevant to the inclusion of non-binary children and young people.

Gender exploring

It is important to acknowledge that some children and young people will go through a period of exploring their gender identity. Over time some of this group may realise they are comfortable with their registered sex, for others this may be part of a longer journey. This exploration can come in many forms and appear at different ages. It may include using a different name and or pronoun. It may include exploring gender expression, for example by changing in what a child wears or how they present, while for others it may relate to their sexual orientation.

The Royal College and Paediatrics and Child Health calls on Health professionals to:

> Help parents, schools and other agencies to adopt a supportive, flexible and responsive attitude to affirm a child's expressed sexuality and gender, whilst being sensitive to change over time. This will involve making appropriate adjustments.[37]

It should also be acknowledged that 'affirmation' is not a neutral act, and specifically 'social affirmation' within schools is likely to have psychological impacts. ("The Cass Review")

Coming out

It is important to recognise that coming out is a hugely significant step in any LGBT person's journey and the initial response can have a lasting impact on the individual. The choice to come out is a personal one and will happen when the time feels right for the child or young person. They may come out to some people and not others, may share it very openly in school or a wider community or only want one person to be aware.

If a child or young person makes the decision to come out to you, it is a big step and suggests that you are a trusted person in their life. Acknowledge what they say, be empathic and thank them for speaking with you. If you aren't sure about terms the young person is using it is okay to ask. A first step may be to gently ask some questions 'Can you tell me more about how you feel…?' 'How long have you been thinking this…?' 'Have you spoken with anyone else / family members…?'

A "watch and wait policy, which does not place any pressure on children to live or behave in accordance with their [sex registered at birth] or to move rapidly to gender transition"[38] should be adopted. (2018 position Royal College of Psychiatrists)

It is advised that you seek permission from the child or young person to share the disclosure with a trained member of staff or support the child or young person to do so. Remember that coming out as trans is not in itself a safeguarding issue (See section 3.3).

It is important to be mindful that, for changes such as names and pronouns to be acknowledged in the wider community, a level of information sharing will need to happen amongst staff and pupils. This should, as much as possible, be led by the child or young person asking for these changes and may include an educational element.

In some education settings, the child or young person may have transitioned in a previous school setting. School staff should be mindful that this child or young person may only come out to a small number of school staff or their peers and, as such, their information must be kept private and confidential (unless confidentiality needs to be broken for safeguarding reasons).

Whilst a child or young person and their family may be keen to come out and make transitions as quickly as possible, school staff may need to work with them to ensure they

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[37] RCPH Supporting LGBTQ+ children and young people https://www.rcpch.ac.uk/resources/supporting-lgbtq-children-young-people#key-messages-for-health-professionals

[38] Retrieved from PS02_18.pdf (rcpsych.ac.uk)

are supported and manage this process thoughtfully. This will help to ensure the safety of the child or young person who is coming out and to support their peers in understanding any changes.

5.2 Working with the parents, carers and siblings of trans pupils and students

As a key principle, education settings will want to work in close partnership with parents and carers. Parents and carers will often be the ones to approach the setting about the needs of their trans child.

Many parents and carers of a child or young person who comes out as trans, non-binary or gender exploring will be supportive of their child although they may also experience some shock, concern and grief for the child they feel they may lose and the future they imagined for them. They may also fear community reactions. Very occasionally, parents and carers will seek to prevent their child from making any steps towards a transition and extra time, support and care will need to be offered to this family.

Parents and carers of trans and gender exploring children can be referred for support if requested and where appropriate in line with parent views for one-to-one discussion or support through a parents' support group. Further information can be found here and a leaflet written by parents for parents of trans children can be found here.

When working with parents and carers, settings should keep in mind that they are representing the interests of the child or young person. As far as possible, care should be taken to ensure the wishes of the individual pupil or student are considered, subject to the child/young person being considered to be Gillick competent, with a view to supporting them during potential transition. Schools must make a record of support provided to gender exploring, trans and non-binary children and young people that includes decisions made in the best interests of the child.

Siblings of a trans child or young person may need support especially if they attend the same school. They may find the situation difficult themselves and find it hard to accept their sibling's gender identity. Even if they are supportive of their sibling, they may also encounter transphobia and transphobic bullying as a result of having a trans family member. Parents and carers may be distracted and be giving more attention to a trans or gender exploring child which can lead to issues for siblings who should be given opportunities to discuss their own feelings with pastoral members of staff. Support may be needed over an extended period

5.3 Transition

Transition can be divided into 'social' and 'medical' transition. Support for trans children and young people in schools will be around the social aspects of transition.

Social transition

A social transition could include:
A name change

A change in pronoun (he, she, they, zie etc.)

Wearing clothes that are associated with the individual's gender identity*

*Of course, not all children and young people who wear clothes associated with a gender different to that of their sex registered at birth are trans. Education settings should provide for a wide spectrum of gender expressions and be open to the diversity shown by children and young people. It is vital that work on sexism, gender expression, gender stereotyping and, particularly, masculinity and femininity is done across the school to ensure all children

and young people feel respected in their gender expression. Equally, a trans person may choose not to wear clothes stereotyped as fitting their gender identity.

A child or young person's goals in terms of transition may change over time and the support offered needs to reflect and support this. For example, a child or young person may start on a transition pathway, realise this isn't the right path for them and reverse some or all aspects of their social transition.

Once school staff understand the areas in which a child or young person is planning to transition, they can think about how to support these changes at school. It is vital that the staff team provides informed and consistent support to individuals who are transitioning. More information on social aspects of transition can be found in section 6.

Be aware that some pupils and students, including those with SEN, may not feel the same pressures or awareness of 'fitting in' socially, or may have empathy differences that make it difficult for them to understand their families or friends' perspectives or feelings. Once they have 'come out' to one person they may have unrealistic ideas or timeframes about how their journey will progress, and this can leave little time to build a supportive plan. Schools will need to develop plans that meet the needs of an individual but provide effective support for them and the wider community.

Some trans pupils and students will need support in developing scripts and responses to questions they may be asked about their transition. This may include phrases such as 'It's none of your business…' 'I have always been a boy / girl'. 'Non-binary means...' This support can be provided, where it reflects the individual pupil's belief, by with a trusted adult at school, working in collaboration with a child or young person's family and another appropriate professional.

Medical transition

It is not the role of educational settings to make decisions about medical treatment. This section is for information and to clarify misconceptions about ages and types of treatments.

Medical intervention to assist physical transition happens under the care of a Gender Identity Service. For under 18s, this is the Tavistock and Portman Clinic (NHS) currently, until closure of the Clinic in the Spring of 2023 There are long waiting times for treatment. Not all trans people will want or be able to access medical transition whilst still at school.

Be aware that as hormone blockers suspend puberty it may be difficult for a trans child or young person to see their peers developing in the way they feel they should be. For example, a trans boy who is on hormone blockers will not experience his voice breaking like his male peers until he has testosterone treatment. This could cause additional stress and challenges.

It is advisable for the school to collaborate with other services, such as the Child and Adolescent Mental Health Services (CAMHS), GIDS (subject to closure in the Spring of 2023).

Coming to terms with being trans can be a difficult time at any age. Starting the initial stages of medical transition (16+) can be particularly demanding for a young person and their family. This can be exacerbated by long waiting times to access medical support and the lengthy assessment process involved. It is therefore a time when support is likely to be needed.

Pupils or students needing time off for a medical appointment should be recorded with an M code.

5.4 Timing of transition (including primary to secondary transfer)

The right time to transition will be when a child or young person feels they are ready, and where the child/young person is legally competent to make the decision or the decision is determined to be in the child/young person's best interests. Schools will have pupils and students at different stages of transition including those who have transitioned prior to attending their school. Circumstances will vary as the Education (Pupil Registration) (Wales) Regulations 2010, provides that schools must have a register of pupils by (legal) 'sex' registered at birth. The level of and type of support needed will vary according to the individual and their stage of transition.

Some trans children may socially transition at primary school. Before they move on to secondary school, the following is recommended:

- Have a meeting with the child (and their parents or carers) to find out if they have any worries and discuss how they would like any issues that arise to be managed.

- Allocate a named contact or 'trusted adult' for the child to approach if issues arise during the school day. This will limit the number of adults they will have to come out to or explain their story to if there are any challenges.

Some children and young people, with support from their families, may make a transition into their preferred gender identity at a point when they are changing schools. Secondary schools will therefore need to be particularly aware and supportive of children transferring from a primary to secondary school who are planning to begin Year 7 with a different name and pronoun. This would include working with students from the original primary school who would be aware of this change.
All settings should be able to effectively support a trans child or young person, including those transitioning.

5.5 Pupils and students with additional vulnerabilities

Intersectionality

All educational settings should recognise the uniqueness of their children and young people, address their needs holistically and challenge all forms of prejudice.

Additional Learning Needs & Disability

Children and young people with Additional Learning Needs (ALN) may need additional support in understanding or accepting their own identity, learning about those who are different to them, and understanding that difference is to be respected and celebrated.

Staff, parents, carers, and wider professionals may need support in understanding that a child or young person with ALN or Disability is just as likely to be lesbian, gay, bisexual, trans or gender exploring as any other person. There is developing research showing that there is a higher prevalence of autistic people who are gender exploring or who have gender identity differences. There is likely to be a range of reasons for this. The National Autistic Society includes articles on its website about this.

It is important that a child or young person's words or actions are not automatically attributed to their ALN or Disability, for example, preferences for clothing types or hair length being seen as a sensory need, or behaviours described as a new special interest, fascination, curiosity or phase. Whilst this may be true in some instances, it is important to listen without judgement so that expressions of questioning gender identity are not dismissed.

Emotions related to gender identity are complex for anyone to understand and express, and this could be exacerbated in those with communication and interaction difficulties.

Some children and young people with ALN or Disability may not see the need to communicate and may not understand that others don't already see them in the same way as they see themselves or know themselves to be. This could obviously lead to increased frustration and anxiety and impact negatively on well-being and mental health. Providing one-to-one support for the child or young person to explore issues in a non-judgmental, safe way with conversations that go at the child's pace will be important.

Differences in social understanding, empathy and communication may mean specific support is needed. Tools such as Mind Mapping, Comic Strip Conversations and Social Stories may be useful to support communication and understanding.

In addition, there may be potential increased vulnerabilities of a young person with SEN. Staff will need to give increased support as needed and teach children about safety including online.

Black, Asian and Minority Ethnic (BAME) children and young people and children and young people from faith backgrounds

BAME trans people are likely to face discrimination based on their race and gender, and this can make seeking support harder. By coming out as trans, some children and young people of faith may risk losing their communities.

All major faiths have LGBT inclusive groups, and these may be a helpful resource for professionals and some children, young people and their families.

In conversation with children, young people and their families, education settings may also encourage, if appropriate, the seeking of support from faith, cultural and community leaders or groups.

CLA-Children Looked After / LAC-Looked After Children

Children and young people who are living in a care setting or have experienced care are likely to come with additional vulnerabilities due to their experience. This could include previous traumas, attachment difficulties and challenges with managing emotions. For children living in care, it will be vital that the communication between professionals, school, carers and child is clear and transparent.

Children in care who are wishing to change their name legally may have additional challenges due to the differing levels of legal responsibility the adults around them have to input into legal decision making. This may mean that a child may not be able to change their name by deed poll until they are 16; the position should be clarified with the child's social worker. Schools should be alert to this issue and ensure they are able to support the child to use a preferred name in their setting where possible.

Children and young people in care may often have experiences of neglect and feeling unheard. Further frustrations around a delayed name change is likely to amplify these feelings.

If a looked after child wants to be known by a different name, it important to share this with their social worker. The social worker can take legal advice on steps to achieve this, if it is considered to be in the child's best interests.

The child or young person in care may have to come out multiple times to various professionals involved in their care. Equally, they may only come out to one person but find multiple people are aware. The child or young person should be informed of what information is being shared and to whom.

5.6 Signposting to additional support

- Youth Cymru (youthcymru.org.uk / mailbox@youthcymru.org.uk / 01443 827840). It runs TransForm Cymru and Belong (Julia@youthcymru.org.uk).

- I AM ME is a youth club for LGBTQ+ young people and allies with the aim of creating safe spaces to express themselves and explore their identities. It offers LGBTQ+ training on topics such as healthy relationships, internet safety and confidence building. Contact Georgia Young for information, Youth Engagement Officer for information (gyoung@valeofglamorgan.gov.uk)

- Umbrella Cymru provides information on social and support groups, clubs and forums on its website.

- CYPF (Children, Young People and Families provides links to LGBTQ+ specific resources.

- Glitter Cymru is a Cardiff based community organisation of ethnic minority LGBTQ+ people. It lists resources on its website:

To remember
- Follow the lead of the child, young person and their family, maintain confidentiality where appropriate and take appropriate, timely action that protects the wellbeing of those involved
- Be alert to any safeguarding concerns and use the appropriate safeguarding procedures
- Consider all aspects of a child and young person's identity in the tailoring of support
- Transitioning is a unique journey
- Make use of local and national specialist support services.

6. Managing specific issues for trans, non-binary and gender exploring children and young people

6.1 Access and safety for all

The Equality Act promotes access to facilities, the curriculum and extra-curricular opportunities to all children and young people.

Education settings will come across children and young people who are at various stages of exploring their identities or transitioning. This includes, but isn't limited to, those who are just coming out as trans, those who have come out as non-binary, those who have socially transitioned either partly or fully and those who are exploring their gender identity with no fixed pathway. As we say above, the protected characteristic of "gender reassignment" presupposes a transition between male and female, or vice versa. It follows that therefore, the information which follows will be relevant to some children and young people and not others. Education settings should consider the guidance below and apply on an individual, case by case basis and seek advice if needed.

It is recommended that schools carry out equality impact assessments when making changes to provision with the purpose of reducing or preventing any potential negative impacts of changes. See Appendix 5 for an example format. For more advice on individual cases, showing due regard and undertaking Equality Impact Assessments please contact the Equality team or the Learning & Skills Directorate Safeguarding Team - safeguardingeducation@valeofglamorgan.gov.uk.

6.2 Toilets

The Education (School Premises) Regulations 1999 which apply to all schools maintained by Local Authorities in Wales, provide (Regulation 3) that separate toilet facilities must be provided for boys and girls aged 8 years or over except where the toilet is in an individually lockable room containing a single toilet and washbasin, with or without a shower or deep sink, which opens directly onto a circulation space other than stairs.[39]

Anecdotal feedback from trans children and young people is that many will opt for a gender-neutral toilet for fear of bullying or harassment rather than a large multi occupancy single sex facility. Single sex toilets can also cause issues for non-binary children and young people.

Ideally, where funding and space allows; educational settings should provide pupils and students with access to a mixture of toilets including:

- single sex toilets

- blocks of floor to ceiling cubicle toilets which open directly onto a circulation space other than stairs that can be used by all, with bins for menstrual products in each cubicle ('toilets for everyone')

- accessible toilets.

6.3 Changing rooms

The Education (School Premises) Regulations 1999 also provide (Regulation 3(7)) that schools must provide "[c]hanging accommodation including showers … for pupils who have attained the age of 11 years and who are in receipt of physical education".

The Equality and Human Rights Commission's document *What Equality Law Means for You as an Education Provider in Wales* makes no reference to trans pupils. The EHRC's Technical Guidance for schools in England, however, states as follows:

> A school fails to provide appropriate changing facilities for a transsexual pupil and insists that the pupil uses the boys' changing room even though she is now living as a girl. This could be indirect gender reassignment discrimination unless it can be objectively justified. A suitable alternative might be to allow the pupil to use private changing facilities, such as the staff changing room or another suitable space[40].

The use of changing rooms by trans children and young people should be assessed on a case-by-case basis in discussion with the individual child or young person. The goal should be to maximise social integration and promote an equal opportunity to participate in physical education classes and sports, ensuring safety and comfort. There is no legal obligation on a school to allow a trans pupil to use a single sex changing room reserved to pupils of the other sex, and schools will need to be mindful of the impact on other pupils of having a pupil of a different sex present while they are in a state of undress.

Any pupil or student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided with a reasonable alternative changing area such as the use of a private area or with a separate time to change. Any alternative arrangement should be provided in a way that protects the child or young person's ability to keep their trans status confidential.

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[39] https://www.legislation.gov.uk/uksi/1999/2/regulation/3/made (Retrieved 18.10.22)

[40] https://www.equalityhumanrights.com/en/publication-download/technical-guidance-schools-england (Retrieved 13.5.21)

6.4 PE and sports

PE will generally be mixed sex in primary schools and so trans pupils are unlikely to be excluded because of their sex. At secondary level PE lessons are more often segregated by sex. Determining whether a trans pupil should be permitted to engage in such lessons with pupils of the other sex will require risk assessment to be carried out in relation to the trans pupil and to the other pupils involved.

The Equality Act permits the sex segregation of "gender affected activities" of a competitive nature. A gender-affected activity is "a sport, game or other activity of a competitive nature in circumstances in which the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared to average persons of the other sex as competitors in events involving the activity", taking into account the "age and stage of development of children who are likely to be competitors".[41] Where the sex segregation involves discrimination because of gender reassignment it will be permissible where necessary in the interests of fairness or safety.

It is unlikely that, pre-puberty, a trans child would have a sex-related advantage in competing and representing the school, or would pose any safety risk to other competitors by reason of their sex. Consideration will have to be given, however, to the suitability changing facilities at an 'away game' and staff should ensure that appropriate provision is available.

In relation to activities such as swimming, a trans child or young person may want to wear swimwear that differs from their peers. Please see section 6.6.

6.5 Residential trips

Determining suitable accommodation on residential trips will require consideration of the privacy interests of the trans pupil and of other pupils with whom they may be accommodated as well as potential safety and safeguarding issues. Appropriate risk assessment should always be undertaken. Placing pupils in a position of having to undress (knowingly or unknowingly) in the presence of pupils of the other sex may give rise to challenge under the Equality Act 2010 or the Human Rights Act, not least where pupils come from religious or other backgrounds which require modesty. Schools will need to consider whether any information relating to the trans pupil will need to be shared with others involved (professionally or as pupils) in any residential trip. Such information should not be shared without consent but a refusal of consent may impact on whether and how a trans pupil may participate in a residential trip.

6.6 Uniform and dress

Trans and non-binary children and young people should be able to dress in a manner consistent with their gender identity. Beginning to dress in the clothes associated with one's gender identity can be a big and potentially daunting step. Care must be taken to ensure that trans children and young people are supported fully during this time as it may be a very visual representation of the transition process, subject to it being satisfied that the child/young person is deemed to be Gillick competent to make a decision without their parents, or alternatively for a meaningful assessment of the child's best interests, which may require the involvement of relevant professionals.

Having a non-gendered school uniform list would be supportive to all pupils and students and particularly those who express their gender differently to stereotypes and those who are trans and non-binary. By allowing children and young people to choose what they wear, schools will allow for regulated structure and remain inclusive.

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[41] https://www.legislation.gov.uk/ukpga/2010/15/section/195 (Retrieved 18.10.22)

Staff training is recommended to ensure that all staff understand what it means to be trans, non-binary and gender exploring. PSHE programmes will be challenging gender stereotypical ideas that to be a woman or a man you have to look a certain way.

6.7 Name and pronoun changes

Some trans children and young people may wish to change the name they are known by and their pronoun (e.g. he, she, they). Often this will be supported by and in communication with parents and carers. Schools will require parental support in relation to a social transition in respect of a child/young person, having determined that the child/young person is deemed to be Gillick competent to understand the implications of social transitioning. In the absence of this a meaningful assessment ought to be carried out of the child's best interests, which may require the involvement of professionals. If this is not the case, the school will need to offer additional support and if necessary, seek further advice.

Respecting a child or young person's request to change name and pronoun is an important part of supporting and validating their identity. Some people who consider their gender identity as not fitting into a binary (boy/girl or man/woman) and may use gender neutral pronouns (for example, 'they' or 'zie').

It is important consistently to use correct pronouns and names to protect a child or young person's confidentiality and to not 'out' them in ways that may be unsafe and exposing. If a mistake is made with a name or pronoun then this can be apologised for.

Staff will need to work with the trans child or young person, to agree how to communicate any changes to names and pronouns to their wider staff team.

School Data Recording; name and gender

If a trans pupil or student wishes to refer to their chosen name and gender this should be supported and will feed on to letters home, reports, bus pass information etc.

Forename and deed poll

The law is clear that a child over the age of 16 has the right to change their legal name by deed poll without the consent of those with parental responsibility (PR). For a child or young person under 16, consent from all those with parental responsibility is required to change a name legally. Where there is an absent parent or lack of parental support this will hinder the process.

If the pupil does not legally change their name schools can still support their wishes to be known by a different name if it is considered in their best interests to do so. The Department for Education guidance is that a formal name change is not required for the school to refer to the young person by a new forename and pronoun. The new name should be recorded as the pupil's 'preferred name'. The same goes for the use of a preferred pronoun. However, the register should still show the pupil's original, legal name and sex.

Although some young people may feel that they want to change their name by deed poll, others may not feel that this is a step that they are ready or able to take. This will mean that, although they may have established themselves within the school under a chosen name, they will have to use their birth name when filling in exam documentation.

This could potentially be a source of distress for that individual and care should be taken by staff to support the young person. Staff should remain sensitive and supportive during such times.

There may be sensitivities for looked after children in relation to making name changes.

Legal name field and exams

To make changes to the child or young person's Legal Name field, evidence is required. The issuers of documents of 'value' (such as passports, driving licences, degree/exam certificates) have a duty to prevent fraud and typically ask for evidence of name change as part of that duty. This evidence is generally a deed poll, described on the previous page.

Theoretically, young people can be entered under any name with an exam board and it is possible for exam certificates to be issued in the name asked for, but this will require careful thought. Schools and colleges should ensure a strategy is agreed with the young person and their parents and carers, then agreed with the various exam boards prior to starting accredited courses, as some exams may be sat in Year 10 and the length of time the process of re-registering may take has to be considered. Exam boards may be experienced in working with trans children and young people and be able to guide the school or college through the process. It is possible to change names on exam certificates but there may be a charge for this.

Once an exam result is accredited it will be linked with a Unique Pupil Number (UPN) or Unique Learner Number (ULN) which existed in the school census information submitted in January of the exam year. UPNs and ULNs are only linked with legal, rather than preferred, names (the term "legal name" refers to the name in which a pupil or student arrives in education for the first time; this is often the name on their birth certificate). Schools need to be aware that the DfE analysis of school performance may still present the young person in the gender registered by their UPN.

Recommendations:
- When sending data about the pupil or student to third parties always ensure you are sending the correct information
- Ensure that the selected name is used on exam certificates before being sent to pupils and students
- Engage with the pupil or student as well as their parents and guardians to agree a strategy for presenting the correct information to the examination boards
- The examination officer should contact the relevant exam board to discuss their processes.

Gender and the school census

The School Census requires the recording of gender as male or female. This may be particularly problematic for pupils and students who identity as non-binary. Government guidance clarifies that self-declared gender can be recorded in the Schools' MIS and this is possible with the Schools' current MIS solution (SIMS.net).

Gender should be self-declared and recorded according to the wishes of the parent and / or pupil. Individuals are free to change the way their gender is recorded.

According to Welsh Government, it is not currently a requirement to record non-binary students as such in the School Census, however this is under review and is likely to change.[42]

6.8 Confidentiality and information sharing

All people, including children and young people, have a right to privacy, although that right is not absolute. Information about a pupil's transgender status, legal name, or sex registered at birth may also constitute confidential information.

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[42] The 2022/23 School Census guidance is **at** https://gov.wales/sites/default/files/publications/2022-08/technical-completion-notes-for-local-authorities-and-schools-plasc-2023.pdf

Please see sections 3.3 & 3.4 for further information.

6.9 Work experience

Where an educational setting is considering a work experience placement for a trans student, the setting must complete a suitable assessment of the potential placement to establish if there is any risk (physical or otherwise) associated with the placement and whether the placement is otherwise suitable for the student. In making this assessment the educational setting should take account of the fact that, as a general principle, personal information relating to the young trans person must not be shared without consent. Schools must be sensitive to this in their planning before any trans young person is placed in any business or organisation. Careful discussion about any proposed placement with the students and parents and carers needs to happen as early as possible to ensure it is suitable and successful.

6.10 Vaccinations

Historically, vaccinations have been given to young people of all genders together in a large space such as a sports hall. Consideration should be given to trans pupils and students if the vaccination is sex-specific i.e. a trans boy might find it very difficult to stand in a queue of girls awaiting a female-specific vaccination, or to be left behind when pupils of one sex are invited to leave class for a vaccination.

The Cardiff & Vale of Glamorgan University Health Board is usually allocated a school hall setting for the vaccination session and pupils attend the hall and vaccinations are given to both genders in a mixed queue. Privacy screens set up at the session especially for a young person who may not have dressed appropriately for the vaccination and needing the upper arm exposed for correct vaccine administration.

The nursing staff at the session are respectful in maintaining dignity at all times.

Catch up clinics are also offered at smaller locations outside of school hours for those pupils that were absent at a school session and for those very anxious pupils who would prefer to attend a quieter session or would like to be accompanied by a parent/guardian.

6.11 Dealing with the media

All media enquiries should be directed to the Council press office (press@valeofglamorgan.gov.uk). Statements should emphasise the Council's commitment to tolerance, inclusivity, equality and acceptance. It is important to stress that the purpose of the toolkit is to ensure that all pupils and students are safe from bullying and feel valued. At all stages the confidentiality of individuals should be protected.

A complaint about press coverage can be made to the Independent Press Standards Organisation via www.ipso.co.uk/

To remember

- Staff are best placed to evaluate how to balance any competing sensitivities whilst actively promoting the welfare and equalities of trans students
- Provide a choice of uniform which is equally appropriate to both boys and girls and therefore allowing children and young people to choose what they wear
- Use the name and pronoun that the trans young person is using, subject to the child/young person being deemed to be Gillick competent, there is parental consent, or a best interests assessment -if a mistake is made learn and do better next time
- Wearing non gender stereotypical clothes does not mean that someone is trans
- Provide support where an official name change has not been made in preparation for exams

- A change of name by deed poll is not required to make a change to school records on school database systems such as SIMS
- Seek support if you are not sure how to support an individual and their family.

7 Trans and non-binary staff and governors

This toolkit does not cover the needs of trans and non-binary staff and governors. However, trans staff and governors can experience similar challenges to those outlined in the Toolkit including bullying and harassment. Education settings are encouraged to think about ensuring they have good policies and practice in place to support these staff members. Unions may be useful for this purpose.

All employees of the Vale of Glamorgan Council will be supported through a range of HR policies and procedures which are recommended to schools. In addition wellbeing support is available through a number of services, including our Occupational Health team our Care First facility and Education Support. Our employee's will also be able to access the Council's GLAM network, providing a safe and supportive environment for colleagues to raise awareness of LGBT+ in the workplace a dedicated avenue for influencing and supporting developments of policy or practice.

Guidance for inclusive workplaces can be found on the Stonewall website: Best practice, toolkits and resources | Stonewall.

8 Additional support

Families First Advice Line

The Families First Advice Line provides advice and support to families that will enable them to resolve their concerns independently, or will assist in identifying appropriate services to be referred onto.

Families First Advice Line will aim to:
• Listen and provide advice on how you can meet your family's needs
• Help you identify and access services for your family in the Vale of Glamorgan
• Provide emotional support and practical guidance to help you resolve your family concerns, worries and issues

If we are unable to answer your questions or resolve your concerns we will make every effort to identify a service that can.

The Families First Advice is the single point of access for :

*Team Around the Family
*Vale Parenting Service
*Youth Wellbeing Service
*Flying Start Outreach
*Young Carers
*Parent and Young Careers assessments
*Barnardo's Cygnet Programme

Available for families in the Vale of Glamorgan with children aged 0 -18 years old.

The Advice Line is also available to professionals to discuss services for families they are supporting.

Contact methods

- [0800 0327 322](#)
- familiesfirstadviceline@valeofglamorgan.gov.uk

Social media

- [Facebook](#)
- [Twitter](#)

Opening times

Monday, Tuesday, Wednesday, Thursday and Friday - 9:00am - 4:30pm

Learning & Skills Directorate Safeguarding Team

Vale of Glamorgan Council Learning & Skills Directorate Safeguarding Team can provide advice to schools in addressing bullying or prejudice and case work to help professionals better support families and children experiencing bullying or prejudice. Phone: 01446 700111 or e-mail:
safeguardingeducation@valeofglamorgan.gov.uk

Appendix 1 **Context Statement**

Vale of Glamorgan Council commitment to equality and inclusion

The Vale of Glamorgan Council is committed to promoting equality and inclusion. The Council's vision is Strong Communities with a Bright Future.

In order to deliver the vision, the Corporate Plan identifies four key outcomes that we want to achieve in order to achieve this vision, one of these is:

- An inclusive and safe Vale

As an organisation, we work under the Equality Act 2010 and the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 to uphold the dignity and respect of all residents in the County, children and young people in our schools, and our staff. The Equality Act and the Wales Regulations also apply to schools.

We understand that social and political contexts and landscapes change over time. We recognise that identities evolve and are relative to different contexts. Therefore, we remain open to learning from schools, different communities, new research, new case law, and best practice and use this to continually review our practice and ensure it remains relevant and up to date.

The Vale of Glamorgan Council is committed to promoting equality and inclusion. The Council's vision is Strong Communities with a Bright Future. To deliver this vision, the Corporate Plan identifies four corporate well-being objectives that it aims to achieve.

We have linked our equality objectives with these corporate well-being objectives. This aligns the Council's work in these areas and mainstreams our work on tackling areas where there is most pressing disadvantage.

Our first Corporate Well-being Objective is **to work with and for our communities**.
Our Strategic Equality Plan links with this by identifying the communities who are most disadvantaged as identified in 'Is Wales Fairer 2018' and through local engagement.

Our second Corporate Well-being Objective is **to support learning, employment and sustainable economic growth**.

Our Strategic Equality Plan aims to support learning and employment for protected groups, focusing on those who are most disadvantaged.

Our third Corporate Well-being Objective is **to support people at home and in their community**.

The Strategic Equality Plan supports the safety and well-being of people at home and in their community, with particular regard to protected groups identified as disadvantaged in 'Is Wales Fairer 2018' and our own local information and data.

Our fourth Corporate Well-being Objective is **to respect, enhance and enjoy our environment**.

The Strategic Equality Plan seeks to ensure our local environment can be enjoyed by a diverse range of people, including disabled people.

These equality objectives support our work to achieve the five ways of working and contribute to our well-being objectives as required by the Well-being of Future Generations

Act. The Strategic Equality Plan was developed in accordance with the five ways of working and they are also reflected in the content of the Plan. There is strong emphasis on collaboration as the Council recognises the need to work with partners to deliver services and improve local well-being. The plan reflects the importance of prevention, and this has been a strong theme in much of the engagement to date. This is a four-year plan, but we recognise that many of the issues are even longer term.

We have developed a model Strategic Equality Plan that schools can adapt to reflect their local circumstances. The model plan focuses on two key areas of the corporate Strategic Equality Plan that relate to schools:

- Improve how we involve, engage, and communicate with protected groups about our work and decisions.

- Develop and implement plans throughout the life of this plan to address attainment gaps for children and young people and provide support to overcome barriers to them reaching their full potential.

There are associated actions and expected outcomes with each of the equality objectives. This toolkit aligns with these.

Context and history

Vale of Glamorgan Council has a long history of working with community and voluntary sector partners to support schools to provide safe learning environments for all pupils and students.

The Transgender Inclusion Toolkit and Guidance Document for Schools and other settings was first adopted by the Vale of Glamorgan Council in 2018 (Cabinet Minute XX refers). The background to the introduction of that document followed a number of requests, dating from 2016, from Vale of Glamorgan schools asking for additional advice and guidance. The document was developed in response on behalf of the five Central South Consortium Local Authorities. Welsh Government were keen for Local Authorities in Wales to adopt the Toolkit which was also adopted by other Local Authorities in Wales, and in some cases subsequently withdrawn, by other councils in Wales.

In recognising social and political contexts and landscapes change over time, more recently the Council has been progressing its review of the toolkit having liaised with colleagues in Welsh Government and other Local Authorities in England and elsewhere in Wales. The Coronavirus (Covid-19) pandemic delayed progress of this work, but as we emerge from the pandemic, this work has been progressing at pace. It is more important than ever to ensure that appropriate advice is given to schools to ensure that the duties owed by the Local Authority are met in respect of all people with a protected characteristic, and to take account of the developments in case law and reviews undertaken.

The Council also recognises that identities evolve and are relative to different contexts. Therefore, in consulting widely on the Council's policy document, we remain open to learning from schools, different communities, new research, new case law, and best practice and use this to continually review our practice to ensure it remains relevant and up to date.

Research base

The formation of the Vale of Glamorgan toolkit has relied heavily on the detailed research and consultation carried out by Brighton & Hove City Council, in summary this was carried out over a number of years, beginning in 2013 the Brighton & Hove Trans Equality Scrutiny Panel set out to ask: *what needs to be done to make things fairer for trans people to live, work and socialise in the city?* Panel members listened to trans people's stories of discrimination, disadvantage, transphobia and invisibility. Their final report made several

recommendations, one of which was to conduct a full needs assessment to understand the extent of the issues. Extensive qualitative and quantitative research took place led by NHS and Brighton & Hove City Council in partnership with University of Brighton and Community and Voluntary Sector organisations in the city. The Trans Needs assessment report was published in 2015.

The Trans Needs Assessment highlighted the level of discrimination and prejudice that was ongoing for trans people in Brighton & Hove. It also noted the strengths of the local trans community and provided practical recommendations on how inequality could be tackled and local and how national services could be improved.

The Toolkit will be subject to continual review and change in consultation with partners and schools and in response to legal changes.

Appendix 2 **National data**

The Government Equalities Office estimates that less than one per cent of the population is trans. Not all children who explore their gender identity will grow up to identify as trans or non-binary. In recent years, there has been a significant increase in the number of young people seeking specialist support from NHS Gender Identity Development Services[43]; although in terms of overall numbers, the proportion of young people accessing these services is still far less than one per cent of the youth population.

In the Metro Youth Chances Report, 2016 over half of trans respondents (58%) knew they were trans by the age of 13.

Various research studies have shown that mental ill health, suicidal ideation, attempted suicide and completed suicide are of higher prevalence for trans people than cisgender people. Some studies have found trans young people to be at an increased risk of self-harm including the Stonewall School Report, 2017.

The Stonewall School Report, 2017 also found:
Nearly half of lesbian, gay, bi and trans pupils (45%) – including 64 per cent of trans pupils – are bullied for being LGBT at school

Almost half of LGBT pupils (45%) who are bullied for being LGBT never tell anyone about the bullying

Seven in ten LGBT pupils (68%) report that teachers or school staff only 'sometimes' or 'never' challenge homophobic, biphobic and transphobic language when they hear it

Seven in ten LGBT pupils (68%) report that their schools say homophobic and biphobic bullying is wrong, but just four in ten (41%) report that their schools say transphobic bullying is wrong

Three in four LGBT pupils (77%) have never learnt about gender identity and what 'trans' means at school

More than two in five trans pupils (44%) say that staff at their school are not familiar with the term 'trans' and what it means

One in three trans pupils (33%) are not able to be known by their preferred name at school, while three in five (58%) are not allowed to use the toilets they feel comfortable in

It is important to remember that, while trans and gender exploring children and young people may face problems in some areas of their lives, many of these problems are not caused by being trans but by the transphobia they experience.
Caution must be exercised when sharing any data on mental health, self-harm and suicidality with children and young people. Guidance on developing suicide aware schools can be found at:
www.samaritans.org/how-we-can-help/schools/ and www.papyrus-uk.org/

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[43] Gender Identity Service https://gids.nhs.uk/number-referrals

Appendix 3 **Further information on the legal framework**

The Equality Act 2010 prohibits direct and indirect discrimination, harassment and victimisation related to the following protected characteristics:

- age (for staff only)
- disability
- gender reassignment
- marriage and civil partnership (for staff only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation.

The Equality Act provides that:

> A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.[44]

Not everyone who identifies as "trans" will have the protected characteristic of gender reassignment which implies a transition (whether physical or otherwise) from male to female, or vice versa.

Direct discrimination occurs when a person is treated less favourably because of a protected characteristic. This might happen where (for example) a boy is refused access to a girls' soccer team. The same is true where a trans girl is refused access to a girls' soccer team because she is not recognised as a girl. The Equality Act permits some sex discrimination, discussed at ** below. Whether or not such discrimination is lawful will depend on the needs and interests of the girls in the soccer team as well as those of the boy or trans girl who wishes to access it, and failure to take their interests into account may result in sex discrimination against those girls.

Indirect discrimination occurs where the same rule is applied to all but has a disparate impact on people in some groups defined by reference to protected characteristics, unless the rule is proportionate to a legitimate aim. Refusing boys and trans girls access to a girls only soccer team will have a disparate impact on trans girls (who are more likely to want to play in the team). Whether or not it will amount to unlawful indirect discrimination is considered further at ** below. As above, whether disparately impacting treatment is lawful will depend on the needs and interests of the girls in the soccer team as well as those of the boy or trans girl who wishes to access it, and failure to take their interests into account may result in sex discrimination against those girls.

The Equality Act 2010 also protects against harassment related to protected characteristics (though not, in the case of pupils, harassment related to religion, belief or sexual harassment). Harassment occurs where a person is subjected to unwanted conduct whose purpose or effect is to violate their dignity or to create an intimidating, hostile, degrading, humiliating or offensive environment for them.

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[44] Section 7 of the Equality Act https://www.legislation.gov.uk/ukpga/2010/15/section/7 (Retrieved 19.5.20)

It should be noted that the Equality Act 2010 lists "belief" as a protected characteristic. This has implications for the extent to which pupils, in particular, may be required or expected to "affirm" trans pupils' gender identity. In addition, the Human Rights Act 1998 gives effect in the UK to the European Convention on Human Rights, Article 9 of which protects freedom of religion and belief and Article 10 of which protects freedom of expression. Schools are public authorities for the purposes of the 1998 Act and must act consistently with the Convention provisions. These matters are further discussed below.

Finally, as regards the Equality Act 2010, the Act imposes a duty on public authorities including schools to pay "due regard" to the need to (a) eliminate discrimination and harassment; (b) advance equality of opportunity; and (c) foster good relations between those who do and do not share protected characteristics.[45] Compliance with this duty (referred to as the "Public Sector Equality Duty" or "PSED") requires that decision makers consider the potential equality implications of policies and significant decisions when developing policy and taking decisions, not as an afterthought. Education setting should keep a record of their decision making, including their consideration of equality implications, and should keep the implications of policies and significant decisions under review. See Appendix 5 for an example tool for providing a written record and contact the Learning & Skills Directorate Safeguarding Team for further advice or training on the PSED.

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[45] Section 149 of the Equality Act https://www.legislation.gov.uk/ukpga/2010/15/section/149 (Retrieved 13.10.22)

Appendix 4 **Definitions - bullying and prejudice**

Shared understanding of bullying and prejudice-based incidents is important to prevent and respond effectively. The Vale of Glamorgan Model Anti-Bullying Policy (..\Learning & Skills Model Anti-Bullying policy January 2021 (English).docx ..\Polisi Gwrth-fwlio Model Dysgu a Sgiliau Ionawr 2021 (Cymraeg).docx recommends that all bullying and prejudice is recorded by type. In this way behaviours can be monitored and used to inform practice and to measure the impact of activities.

Bullying

"Bullying is behaviour by an individual or group, repeated over time, that intentionally hurts another individual or group either physically or emotionally. Bullying can take many forms (for instance, cyber-bullying via text messages, social media or gaming, which can include the use of images and video) and is often motivated by prejudice against particular groups, for example on grounds of race, religion, gender, sexual orientation, special educational needs or disabilities, or because a child is adopted, in care or has caring responsibilities. It might be motivated by actual differences between children, or perceived differences."[46]

Transphobic Bullying

Transphobic bullying is when someone is bullied because they are trans, or perceived to be trans.
Where children and young people are perceived not to be conforming to the dominant gender roles that may be widely expected of them, schools should be alert for signs of bullying. Transphobic bullying is commonly underpinned by sexist attitudes and can affect any child or young person. An individual may also experience transphobic bullying as a result of perceptions that a parent, relative or other significant figure does not conform to stereotypes about gender expression or is trans.

Prejudice-based incidents

This is a one-off incident which is perceived by the victim or any other person, to be motivated by hostility, prejudice or ignorance, based on a person's perceived or actual ethnicity, sex, disability, religion, beliefs, sexual orientation or gender identity or their association with someone from one of these groups. These can also include indirect prejudice driven behaviour that is not targeted at one individual. The impact of this expression of prejudice against an equality group whether intentional or not can be damaging and must therefore be responded to as a prejudice related incident.

'Hate Incidents' is the term widely used by the police and other sectors to describe prejudice-based incidents. Schools should be aware that at their most serious both bullying and prejudice-based incidents should be reported to the police.

Transphobic Incident

"Any incident which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice against a person who is transgender or perceived to be transgender"[47].

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[46] Preventing and Tackling Bullying, DfE 2013
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/623895/Preventing_and_tackling_bullying_advice.pdf (Retrieved 26.5.20)
[47] Crown Prosecution Service https://www.cps.gov.uk/legal-guidance/homophobic-biphobic-and-transphobic-hate-crime-prosecution-guidance

Appendix 5 **A Guide to Trans Inclusive policies**

Policy	Example of trans inclusive approach (read relevant sections of this toolkit to further inform writing of relevant policy section)
Equality Policy	This should be in line with the Equality Act 2010 and reference gender reassignment as a protected characteristic. All policies should include the protected characteristic of sex as well as gender reassignment. This policy could reference this *Trans Inclusion Schools Toolkit* by saying for example that the setting works within the guidance provided by Vale of Glamorgan Council.
Anti-Bullying Policy	Include reference to sexist, homophobic, biphobic and transphobic bullying (alongside bullying associated with any other protected characteristic) and explain how both bullying and prejudice-based incidents are recorded by type, analysed and monitored.
PE and Physical Activity Policy	Include detail on what is in place to ensure all those using changing rooms are kept safe. Include how trans pupils and students will be supported to participate in PE and physical activity (including swimming) and enabled to access appropriate changing facilities. Include how changing facilities will be managed for away fixtures.
School visits, trips and residential policies	Include how pupils and students will be supported to participate in residential trips. Include how discussions will be had with trans children and young people and their families to support this.
PSHE Education policies	Include how the PSHE curriculum (including statutory relationships, sex and health education) will support understanding of trans identities and be inclusive of trans children and young people.
Uniform Policy	Uniform items are listed, rather than listed by gender. A statement is included to cover approved changes to swimming costumes for trans pupils and students and others for whom adjustments are needed such as those from faith backgrounds.
Safeguarding, Confidentiality, Data Protection	As appropriate these explain how changes are made to personal information and make clear that: Being trans is not a safeguarding issue Trans members of the community will not be 'outed' without their permission unless there are safeguarding reasons for doing so
Special educational needs and disabilities policies / School Offer	Include the statement that a pupil or student who has ALN and/or is disabled is just as likely to be trans or gender exploring as any other person and signpost to support their needs.
Teaching and learning / behaviour policies	These should actively discourage unnecessary grouping or seating by sex whilst making clear how single sex groupings will be sensitively managed when deemed necessary to support learning or needs of a particular group. These policies will also encourage approaches which are inclusive, representative of the community and prevent and challenge sexism, homophobia, biphobia and transphobia.

Appendix 6 Template for school level statement on good practice in working with trans children and young people in our school

Education settings should include reference to the inclusion of trans children and young people across the policy framework as described in Appendix 8. However, some settings may want to provide key messages for all staff outlining how trans children and young people will be supported. This statement can therefore be adapted to reflect school-based practice and shared with staff following training and as one aspect of the setting's practice to improve equality and inclusion. It is recommended that there is a named member of staff with training and expertise in supporting trans children and young people.

Disclosures of trans identity will be shared with [named member of staff] to ensure appropriate decisions are made to support the child or young person
We will take our lead from children and young people and involve them in making decisions that will affect them
We will provide access to a range of appropriate toilets and changing facilities, ensuring all those using changing rooms and toilets are kept safe (appendix 8)
We will update our records. [Named member of staff] will be responsible for this and communicating changes made)
We will support all pupils / students to wear uniform and PE kit in line with their gender identity
We will only divide pupils / students by sex when there is an educational reason for doing so
We will enable full access to enrichment activities for trans pupils and students
We will support trans pupils and students to access medical appointments if required
We will take confidentiality seriously and not 'out' a trans child or young person without their permission unless there is a safeguarding reason to do this (see appendix 8)
We will provide additional support to a trans child or young person and or their parents, carers and siblings by referring them to services as appropriate??
We will use the curriculum and other opportunities to challenge gender stereotyping, sexism, homophobia, biphobia and transphobia and will represent diversity as part of our wider equality work
We will identify, record and challenge all incidents involving prejudice or bullying including those which are sexist, homophobic, biphobic and transphobic

Appendix 7 A whole setting approach to trans inclusion – audit and action planning tool

Area of focus	Suggested activities (these could be RAG rated)	Next steps / Actions identified	In place√
Trans issues and transphobia are acknowledged across the policy framework	Reference provision that is being made or will be made for trans pupils and students in the Equality Policy. Include an equality objective (Public Sector Duty of the Equality Act 2010) which supports the needs of trans children and young people. Reference transphobia when talking about prejudiced forms of bullying in the anti-bullying policy. In the uniform policy, list uniform items which are acceptable in school, but do not list by gender. When groups of pupils or students are referenced or discussed ensure this includes trans pupils where appropriate. Confidentiality statements make clear that trans pupils and students have the right to privacy related to their gender identity. If there are 'out' trans pupils and students in the community, ensure their progress and achievement is monitored.		

Area of focus	Suggested activities (these could be RAG rated)	Next steps / Actions identified	In place√
Acknowledge there could be trans people within the educational setting such as family members, staff, governors and pupils	Ensure that there is a statement in the Equality Information for the school (required under the Public Sector Duty) which states that there may be trans members of the community. Use assemblies to celebrate a diversity of trans people and ensure pupils and students understand that transphobia is unacceptable in the school community. Use inclusive language such as 'all genders' / 'everyone 'to avoid making assumptions about an individual's gender identity.		

Area of focus	Suggested activities (these could be RAG rated)	Next steps / Actions identified	In place√
Closely monitor all areas of the curriculum, resources and teaching and learning approaches to ensure that where possible: trans people are visible gender stereotypes or transphobic material is avoided and trans pupils and students feel included in the classroom	Ensure the library stocks age appropriate books about a diversity of trans children, young people and adults. Discuss and challenge sexism, gender stereotyping and transphobia when it arises and as part of planned opportunities in PSHE education.		
Ensure that the curriculum and PSHE education and work related to spiritual, moral, social, and cultural development is used to challenge gender stereotypes, support the development of a positive understanding of gender identity and prevent transphobia	Books can be used in English or literacy to discuss trans identities, gender stereotyping and sexism. All subjects can provide role models which challenge gender and other stereotypes and raise aspirations for all groups. PSHE education and Relationships and Sex Education from Early Years onwards can be used to develop understanding of trans, gender stereotyping and sexism and to explain that gender identity is a spectrum.		
Effectively challenge, record and deal with transphobic abuse, harassment and bullying (such as name-calling, derogatory jokes, graffiti, unacceptable or unwanted behaviour, intrusive questions) and then monitor incidence of transphobic abuse, harassment and bullying, and use this information to inform whole school developments	Bullying and prejudice-based incidents are recorded by type. Guidance or scripts on how to effectively challenge transphobic language and attitudes are provided to staff. Staff, pupils and students are provided with training and educational opportunities to develop skills in challenging all prejudiced language and behaviour including that which is sexist, homophobic, biphobic and/or transphobic.		
Area of focus	**Suggested activities (these could be RAG rated)**	**Next steps / Actions identified**	**In place√**

Include trans issues in equality training for staff and governors and support wider community understanding of trans	Trans awareness training, support or information is provided to the whole school community (including parents and carers).		
Participate in events such as LGBT History Month and ensure visibility of trans people and their achievements	Mark LGBT History Month, Transgender Day of Visibility and/or International Day against Homophobia and Biphobia and ensure that trans people including trans people of colour are represented in this. Use displays to celebrate achievements of a diversity of trans people. Ensure the library stocks age appropriate books about trans children, young people and adults.		
Communication to all parents and carers that includes reference to the work that is going on to make the educational setting trans inclusive and if appropriate signpost to opportunities for them to develop their understanding of trans	Promote on newsletters and the website work going on in school related to gender equality, trans inclusion and work to prevent homophobia, biphobia and transphobia.		
Area of focus	**Suggested activities (these could be RAG rated)**	**Next steps / Actions identified**	**In place√**
Provide appropriate support to pupils and students who identify as trans and refer them and their families when needed to national or local services	Allies or trusted adults for LGBT pupils and students are identified to talk with or go to with any issues arising in a school day. There are a range of toilets available for everyone. Name and gender changes are made on systems.		

	Residential trips are accessible to all pupils and students and reasonable adjustments are made when necessary.		

VALE of GLAMORGAN
BRO MORGANNWG

Trans Inclusion

Schools Toolkit

A guide to supporting transgender children and young people in school.

Contents

Foreword

We are pleased to present this updated version of the *Trans Inclusion Schools Toolkit.*

We recognise that Trans children and young people are vulnerable to bullying, prejudice and poor mental health outcomes if they are not effectively supported.

We see the Toolkit as an important addition to the range of equality and anti-bullying resources and guidance we provide to education settings in the Vale of Glamorgan that support students with protected characteristics and wide-ranging needs.

We know from conversations with young people and their families how vital they have found support in this area and the support our schools have offered them.

We believe this guidance in conjunction with other guidance documents provides ideas for policy and practice that will keep all children and young people safe and help to create environments which help prevent and pro-actively respond to gender stereotypes.

Please read it carefully as this is a complex area of practice where careful thought and balance of needs is required.

Thank you in advance for your support.

Councillor Lis Burnett
Leader of the Vale of Glamorgan Council

Paula Ham
Director of Learning and Skills

Acknowledgements

This is the second version of Vale of Glamorgan Council's Trans Inclusion Schools Toolkit and reflects contributions and feedback from a wide range of sources.

This updated version has relied on:

- The Brighton & Hove Trans Inclusion Schools Toolkit and the contributions made by Allsorts youth project.

- The ESTYN thematic inspection report of peer-on-peer sexual harassment 'We don't tell our teachers' December 2021.

- Welsh Government response to and recommendations resulting from the aforementioned ESTYN report.

1 Introduction

1.1 Vale of Glamorgan's Council commitment to equality and inclusion

The Vale of Glamorgan Council is committed to promoting equality and inclusion. Our vision is for a more equal County where no one is left behind. Everyone deserves to be valued and treated with respect.

As an organisation, we work under the Equality Act 2010 and the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 to uphold the dignity and respect of all residents in the County, children and young people in our schools, and our staff. The Equality Act and the Wales Regulations also apply to schools.

The obligations imposed by the Equality Act and the Wales Regulations are considered at 3.1 below. The legislation not only prohibits discrimination related to protected characteristics including gender reassignment, but also requires that public authorities including the Council and schools pay due regard to the need to take active steps to remove or minimise disadvantages associated with these characteristics.

We understand that social and political contexts and landscapes change over time. We also recognise that identities evolve and are relative to different contexts. Therefore, we remain open to learning from schools and different communities and to new research, new case law, and best practice. We will use this continually to review our practice to ensure it remains relevant and up to date.

The Trans Inclusion Schools Toolkit is intended for use by staff and governors in Vale of Glamorgan primary, secondary and special schools. Some of the content and principles will also be of use to Further Education and Early Years Settings. Independent schools within our County are welcome to access it.

It will be of particular interest to senior leaders involved in developing and leading whole-school policy across a range of areas of practice and to pastoral staff working directly with trans children and young people. However, all members of the school community should have an appropriate level of trans awareness (see sections 4.2 and 4.3 for information on

the role of governors and staff training), with the level of awareness determined by role and context.

1.2 Overview

Education settings are diverse communities that reflect wider society and are places where children and young people learn about valuing and respecting themselves and others. Children and young people spend a great deal of time in these settings and should feel able to be themselves in them.

Schools and education settings have a responsibility to ensure that all children and young people in their care feel safe and supported to reach their potential and be the best version of themselves. Trans and non-binary children and young people will generally be a small group within a school community, but a potentially vulnerable one.

This Trans Inclusion Schools Toolkit is a Vale of Glamorgan Council guide for education professionals. Education settings will decide the extent to which the guidance is supportive of their values and ethos.

A glossary of terms is included in section 2.2 below. Here it is sufficient to say that the term "transgender" or "trans" can be understood as "an umbrella term for people whose gender identity is different from the sex registered at birth".[1] This toolkit uses the phrase "sex registered at birth" in line with the Census 2021[2], except where it is quoting other sources. A person's sex is registered at birth based on their physical characteristics in utero and at birth.

It is also useful to clarify at this point that "gender" refers to the socially constructed characteristics of women and men (girls and boys) including the norms applied to them, the roles they are expected to play and the relationships that are expected to exist between them. Gender expectations vary between cultures and can change over time. Finally, for the purposes of this overview, the term "gender identity" is used in this toolkit to refer to a person's internal perception of themselves, which may not match their sex registered at birth. Not everyone regards themselves as having a distinct gender identity, some regarding

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[1] Office for National Statistics
https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21
(Retrieved 14.5.2020)
[2] Census 2021 https://census.gov.uk/help/how-to-answer-questions/online-questions-help/is-the-gender-you-identify-with-the-same-as-your-sex-registered-at-birth

the concept of "gender" as external and societally imposed rather than internal. But for others gender identity is central to the understanding of trans identity.

Many people do not regard (internally experienced) gender as being binary but see it as existing on a spectrum and increasing numbers of people are identifying as somewhere along a continuum between man and woman, or as non-gendered (neither man nor woman). The concept of non-binarism is not new and has existed for many years across different cultures around the world.[3]

Children and young people who develop an understanding of their gender identity as being different from their sex registered at birth may experience high levels of anxiety, as may their families. Some studies find trans young people to be at an increased risk of self-harm and suicide (see Appendix 2), and also find that this risk is significantly reduced when the young person is effectively supported[4]. The Royal College of Paediatrics and Child Health Care recognises, as does the Council, "the discrimination that arises as a result of misleading and prejudiced information, and the additional significant harm this can cause to LGBT+ children, young people and their families"[5].

Creating safe, inclusive learning environments is crucial therefore in order to reduce and prevent harm to vulnerable trans and gender variant children and young people such that they can learn and thrive at school.

Every trans and gender variant child's and young person's views, experience, needs and journey will be different, and they should be consulted and involved in the support they are offered.

This toolkit does not address the needs of children and young people with differences in sex development, although it is possible that some of the inclusive practice outlined will provide support to them. Neither do all parts of this guidance refer to all trans and gender variant children and young people.

This toolkit recognises that there will be trans and gender variant staff and governors in Vale of Glamorgan schools. Section 7 signposts resources that may be supportive in creating a working environment that supports and values these members of the community.

Trans inclusion is one part of a much wider equality agenda for schools. This toolkit focuses on trans children and young people for the reasons set out in the context statement in

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[3] Office for National Statistics
https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21
(Retrieved 14.5.2020)

[4] https://www.sciencedirect.com/science/article/abs/pii/S1077722918300385

[5] https://www.rcpch.ac.uk/resources/supporting-lgbtq-children-young-people#key-messages-for-health-professionals
(accessed 24.9.20)

Appendix 1. Supporting trans and gender variant pupils and students forms just one vital part of efforts to celebrate difference and tackle all forms of discrimination, including homophobia, biphobia, sexism, racism, prejudice related to religion (or the absence thereof) and ableism. For guidance and training on all of these important areas of work contact the Learning & Skills Directorate Safeguarding Team.

1.3 How to use the Toolkit

Different sections of the Toolkit will be relevant to different members of staff depending on whether their role is pastoral or curriculum-based. It is recommended that at least one member of staff and one member of the governing body has an in-depth knowledge of the contents of the toolkit.

Appendix 6 can be adapted to reflect your school practice and shared with staff to reinforce your approach to supporting trans children and young people. In Appendix 7 you will find an audit and action planning tool which may provide a useful starting point to developing trans inclusive practice.

Education settings are reminded that, whenever significant changes to policies are made, due regard must be given to the equality implications of decision-making (See section 3 and Appendix 3) and safeguarding procedures must be followed.

This guide does not cover all possible scenarios. Settings and schools are encouraged to seek further advice if needed, from Vale of Glamorgan Council Learning & Skills Safeguarding Officer, or the Vale of Glamorgan Council Corporate Equalities Team

1.4 Underlying principles and messages in the toolkit

- Education settings should continue to develop effective equality and anti-bullying policies and practices across all characteristics protected by the Equality Act 2010 and in line with the values and ethos of the setting.

- Diversity [recognition of diversity] in education settings provides children and young people with opportunities to learn about, and prepare them for, life in modern Britain. The prevention of gender stereotyping, sexism, homophobia, and biphobia is central to reducing and preventing transphobia.

- Transphobia and bullying can contribute to poor mental health outcomes for trans children and young people (see Appendix 2).

- There is more than one way to be a boy or a girl.

- Identities are developing throughout childhood and adolescence and into adulthood, and some children and young people may explore and express their gender identities in different ways. This can start from a young age and may change over time.

- Children and young people should be able to explore their identities, be accepted and change their minds.

- Support for individual trans and gender variant children and young people should be provided on a case-by-case basis in discussion with them, their family and relevant professionals.

- Members of the education setting may need support in developing an understanding of trans and gender variant identities and experiences and education settings need to consider how to provide/ ensure such support and ensure the safety of all.

- This guidance does not provide advice on any medical issues relating to gender transition. Decisions and guidance about medical matters are made outside of education settings by the NHS. The recognised universal gateway into NHS services is via the GP service.

2 Developing understanding of trans and gender variant children and young people

2.1 Introduction to terms

This section provides an overview of key concepts and terminology used in this toolkit. Language is constantly changing and not everyone agrees with the definitions used here. This section will be regularly reviewed.

Identity is personal and individual and may be subject to change. The umbrella terms 'trans' and 'non-binary' are generally accepted, but pupils and students should be allowed to self-describe. Some children and young people feel that they have a gender different from their sex registered at birth. As set out above, the term "gender identity" is used in this toolkit to refer to the internal perception which some people have of themselves which may or may not match their sex registered at birth.

Sex is normally registered at birth based on the external genitalia of a child but is also used to refer to chromosomes as well as hormones and secondary sex characteristics that won't become apparent until the child is older. Hormone levels, genitalia and secondary sex

characteristics change throughout a course of a person's lifetime, and some trans people use medical intervention to seek to reconcile their hormone levels, genitalia and/or secondary sex characteristics with their gender identity.

2.2 Key definitions

Gender dysphoria

Gender dysphoria is a term that describes a sense of unease that a person may have because of a mismatch between their biological sex and their gender identity. This sense of unease or dissatisfaction may be so intense it can lead to depression and anxiety and have a harmful impact on daily life[6].

Gender and gender identity

The World Health Organisation states that:

> Gender refers to the socially constructed characteristics of women and men – such as the norms, roles and relations of and between groups of women and men. Gender norms, roles and relations vary from society to society and evolve over time. They are often upheld and reproduced in the values, legislation, education systems, religion, media, and other institutions of the society in which they exist. When individuals or groups do not "fit" established gender norms they often face stigma, discriminatory practices, or social exclusion – all of which adversely affect health. Gender is also hierarchical and often reflects unequal relations of power, producing inequalities that intersect with other social and economic inequalities.

> Gender interacts with but is different from sex. The two terms are distinct and should not be used interchangeably. It can be helpful to think of sex as a biological characteristic and gender as a social construct. Sex refers to a set of biological attributes in humans and animals. Sex is mainly associated with physical and physiological features including chromosomes, gene expression, hormone level and function, and reproductive and sexual anatomy.

> Gender identity refers to a person's innate, deeply felt internal and individual experience of gender, which may or may not correspond to the person's physiology or designated sex at birth.[7]

The Office for National Statistics states that:

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[6] NHS Gender dysphoria - NHS (www.nhs.uk) (Retrieved 9.12.20)
[7] WHO, *Gender and Health*, https://www.who.int/news-room/questions-and-answers/item/gender-and-health (Retrieved 6.7.22).

- Gender identity is a personal, internal perception of oneself and so the gender category someone identifies with may not match the sex they were assigned at birth
- An individual may see themselves as a man, a woman, as having no gender, or as having a non-binary gender – where people identify as somewhere on a spectrum between man and woman[8]

Cisgender or cis

Someone whose personally experienced or perceived gender identity is the same as the sex they were registered at birth. The term "non-trans" is also used by some people.[9]

Gender expression

The World Health Organisation states that:

> Gender expression refers to how an individual expresses their gender identity, including dress and speech. Gender expression is not always indicative of gender identity.[10]

A person who does not conform to societal expectations of gender may not identify as trans.[11]

It is very common for children to experiment and explore through dressing up. Many children will 'dress up' in clothes which are seen as stereotypically intended for a different gender and this alone would not mean they were trans. Outside the context of dressing up, a boy wearing a dress may be engaged in gender expression without signifying that he is trans. Schools can play a part in normalising, for example, boys having long hair or wearing jewellery without assumptions that they are gay or trans.

Any prejudice expressed to a child, young person, or adult because of their gender expression (for example, what they are wearing) or because they are gender non-conforming should be challenged.

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[8] Office for National Statistics
https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21
(Retrieved 14.5.2020)

[9] Stonewall https://www.stonewall.org.uk/help-advice/glossary-terms (Retrieved 14.5.20)

[10] WHO, *Gender and Health*, https://www.who.int/news-room/questions-and-answers/item/gender-and-health (Retrieved 6.7.22).

[11] Stonewall Glossary https://www.stonewall.org.uk/help-advice/faqs-and-glossary/glossary-terms (Retrieved 29.7.2020)

Gender stereotypes

The UN High Commissioner for Human Rights explains that 'Gender stereotyping refers to the practice of attributing to an individual woman or man specific attributes, characteristics, or roles by reason only of her or his membership in the social group of women or men".[12]

Gender stereotyping becomes harmful when it limits an individual's capacity to develop, make choices and pursue careers outside of a stereotype.

The wellbeing of boys and girls can be harmed by stereotyping[13]. All education settings will want to prevent and challenge gender stereotypes and give the message that there are many ways to be a girl or a boy. This approach will be of benefit to the wellbeing and aspirations of all children and young people and contribute to reducing and preventing sexism, homophobia, biphobia and transphobia. This work will also benefit trans and non-binary children and young people as unrealistic expectations about what it means to be a man, woman, boy or girl in society can do harm to those who don't conform to the gendered expectations placed on them.

Intersex or differences in sex development (DSD)

"Intersex people are individuals whose anatomy or physiology differ from contemporary cultural stereotypes of what constitute typical male and female"[14]. "Differences in sex development (DSD) is a group of rare conditions involving genes, hormones and reproductive organs including genitals. It means a person's sex development is different to most other people's"[15].

Non-binary

"An umbrella term for people whose gender identity doesn't sit comfortably within 'man' or 'woman'. Non-binary genders and identities are varied and can include people who identify with some aspects of binary identities, while others exist outside of

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[12] https://www.ohchr.org/en/women/gender-stereotyping, retrieved 6.7.22.

[13] The Children's Society How gender roles and stereotypes affect young people https://www.childrenssociety.org.uk/what-we-do/blogs/how-gender-roles-affect-young-people (Retrieved 2.12.20)

[14] The UK Intersex Association http://www.ukia.co.uk/about.html (Retrieved 4.12.20)

[15] NHS Differences in sex development - NHS (www.nhs.uk)

those categories entirely."[16] Non-binary people may use the pronoun 'they' but may also use 'he', 'she' or another pronoun. Pronouns do not necessarily correlate with gender, for example a person may have a non-binary gender but use 'he' or 'she' pronouns.

Orientation

"Orientation is an umbrella term describing a person's attraction to other people. This attraction may be sexual (sexual orientation) and or romantic (romantic orientation). These terms refer to a person's sense of identity based on their attractions, or lack thereof."[17] Trans and gender variant people, like everyone else, can have a range of sexual orientations.

Sex

The Office for National Statistics states that the UK government defines sex as:

- referring to the biological aspects of an individual as determined by their anatomy, which is produced by their chromosomes, hormones and their interactions
- generally male or female
- something that is assigned at birth[18].

Trans and gender variant

A term for people whose "gender identity is different from the sex assigned at birth"[19] including those who identify as:

- transgender
- gender queer
- gender fluid
- non-binary
- both male and female (this may be at the same time or over time)
- neither male nor female
- a third gender
- or who have a gender identity which we do not yet have words to describe.

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[16] Stonewall https://www.stonewall.org.uk/help-advice/glossary-terms (Retrieved 14.5.20)

[17] Stonewall https://www.stonewall.org.uk/help-advice/glossary-terms (Retrieved 14.5.20)

[18] Office for National Statistics
https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21
(Retrieved 14.5.2020)

[19] Office for National Statistics
https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21
(Retrieved 14.5.2020)

Many cultures across the world have a different gender system to the western world. A person who identifies as a gender from within their culture that does not exist within UK culture may not identify as trans, although others might.

Trans boy or man

A person registered female at birth and whose gender identity is that of a boy or a man.

Trans girl or woman

A person registered male at birth and whose gender identity is that of a girl or woman.

Transition

"The steps a trans person may take to live in the gender with which they identify. Each person's transition will involve different things. Transitioning might involve things such as telling friends and family, dressing differently and changing official documents."[20] For some it may also involve medical intervention, such as puberty blockers, hormone therapy and surgeries, but not all trans people want or are able to have this. A young trans and gender variant person cannot have surgery in the UK until they are an adult.

To remember

- Language is subject to change over time
- Individuals should be allowed to self-describe
- Children and young people will explore their identity and gender expression in a range of ways; this does not necessarily mean they are trans
- Gender identity, sexual orientation and gender expression are all spectrums, and all describe different things

3 Legal context

3.1 Equality Act, 2010

Gender reassignment is defined by the Equality Act as follows:

A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological

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[20] Stonewall https://www.stonewall.org.uk/help-advice/glossary-terms (Retrieved 14.5.20)

or other attributes of sex. [21]

Not every trans and gender variant child or young person will have the protected characteristic of gender reassignment though many will. The latest relevant case suggests that the term is wide enough to cover:

(1) those whose transition is not medical but involves 'changing non-physiological aspects of sex, such as one's name and/or how one dresses, or wears one's hair, or speaks, or acts';

(2) those who are 'proposing to undergo', as well as those who are undergoing or have undergone, all or part of a process of 'reassigning … sex', as long as they have made 'a conscious decision, which can properly be described as settled, to adopt some aspect of the identity of a gender different from that assigned at birth. A passing whim will not do, but nor is an intention required that the change should be permanent'.[22]

The Equality Act 2010 provides protection from direct and indirect discrimination in respect of the protected characteristic of 'gender reassignment' and the similar protection to following protected characteristics:

- age (for staff only)
- disability
- marriage and civil partnership (for staff only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation[23]

The Equality Act does not require that pupils with the protected characteristic of gender reassignment are treated as if they are of a sex other than that registered at birth. Nor does it require that such pupils are permitted to transition socially at school. It does require that they are not discriminated against because of their

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[21] Section 7 of the Equality Act https://www.legislation.gov.uk/ukpga/2010/15/section/7 (Retrieved 19.5.20)

[22] *R (AA & Ors) v National Health Service Commissioning Board)* [2023] EWHC 43 (Admin), §§130-132.

[23] Note that the Equality Act does not prohibit harassment of students (as distinct from staff) because of religion or belief or sexual orientation. Some such harassment will however amount to direct discrimination and be prohibited as such.

protected characteristic. The Equality Act also allows schools to provide single sex spaces and activities, and to exclude pupils of the other sex from them irrespective of their gender orientation, if this is proportionate to a legitimate aim. Please see section 6 for more on single-sex spaces in schools.

The Equality Act 2010 also protects against harassment related to protected characteristics (though not, in the case of pupils, harassment related to religion, belief or sexual harassment). Harassment occurs where a person is subjected to unwanted conduct whose purpose or effect is to violate their dignity or to create an intimidating, hostile, degrading, humiliating or offensive environment for them.

It should be noted that the Equality Act 2010 lists "belief" as a protected characteristic. This has implications for the extent to which pupils, in particular, may be required or expected to "affirm" trans pupils' gender identity. In addition, the Human Rights Act 1998 gives effect in the UK to the European Convention on Human Rights, Article 9 of which protects freedom of religion and belief and Article 10 of which protects freedom of expression. Schools are public authorities for the purposes of the 1998 Act and must act consistently with the Convention provisions. These equality matters are further discussed below.

The Equality Act 2010 imposes a duty on public authorities including schools to pay "due regard" to the need to (a) eliminate discrimination and harassment; (b) advance equality of opportunity; and (c) foster good relations between those who do and do not share protected characteristics.[24] Compliance with this duty (referred to as the "Public Sector Equality Duty" or "PSED") requires that decision makers consider the potential equality implications of policies and significant decisions when developing policy and taking decisions, not as an afterthought. Education settings should keep a record of their decision making, including their consideration of equality implications, and should keep the implications of policies and significant decisions under review.

3.2 The Equality Act 2010 & trans and gender variant pupils and students in Vale of Glamorgan education settings

Whether or not gender variant students fall within the protected characteristic of "gender reassignment",[25] they (like other pupils) are entitled to protection from all forms of bullying.

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[24] Section 149 of the Equality Act https://www.legislation.gov.uk/ukpga/2010/15/section/149 (Retrieved 13.10.22)

[25] An employment tribunal suggested in *Taylor v Jaguar Land Rover Ltd*, 1304471/2018 that the protected characteristic of gender reassignment extends to non-binary people but it is not clear that this is consistent with the statutory language and the tribunal's decision does not create binding precedent.

They will also be protected from discrimination on the basis of their perceived gender reassignment, and/or their association with others. The *Equality Act 2010: advice for schools* provides that:

> Schools need to make sure that all gender variant pupils, or the children of transgender parents, are not singled out for different and less favourable treatment from that given to other pupils. They should check that there are no practices which could result in unfair, less favourable treatment of such pupils.[26]

3.3 Safeguarding

Safeguarding the mental and physical health of children and young people is paramount. Some trans and gender variant children and young people may be particularly vulnerable and may require additional support.

Keeping Learners Safe (gov.wales) highlights how emotional abuse that "may involve serious bullying" is a safeguarding issue. The higher prevalence of bullying which is likely to be experienced by trans and gender variant children and young people, outlined in Appendix 2, means that tackling transphobic bullying should be a high priority for all schools and education settings.

There are no provisions in child protection and safeguarding legislation specific to trans and gender variant children or young people aside from what is in place to keep all pupils and students safe. Settings should follow their usual safeguarding policies remembering that being trans and gender variant is not in itself a safeguarding issue. All schools should follow the *Keeping Learners Safe* 2022 statutory safeguarding guidance.[27]

3.4 Confidentiality and information sharing

When a child or young person initially discloses their trans and gender variant status, it is important to talk to them about confidentiality and who, if anyone, they would like information to be shared with. The member of staff should make clear that they will need to share the information with at least one other member of trained staff and then discuss who else will be told from there. In line with pastoral policies, it would be good practice to keep a record of support provided to trans and gender variant children and young people.

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[26] Equality Act; Advice for Schools (2018) p17 https://www.gov.uk/government/publications/equality-act-2010-advice-for-schools (Retrieved 13.10.22)
[27] https://gov.wales/sites/default/files/publications/2022-04/220401-keeping-learners-safe.pdf

Most parents and carers of trans and gender variant children and young people will be involved in working in partnership with the school and their child to appropriately plan and deliver support (see section 5). Settings will encourage pupils and students to talk with their parents and carers about their trans or gender exploring status, including offering to talk with the parent or carer on the child's behalf. Even if the decision for social transition is supported by parents, school has obligations to safeguard the learners and ask themselves the question whether, for example, in the case of a very young child the issue is being driven by the parents or the child. If a decision is made by schools not to support a learner's social transition (with or without parents' consent), schools must continue to ensure that the learner is protected from any form of bullying or discrimination.

Leaving aside cases involving communication with parents, information about a child or young person's trans status, legal name, or sex registered at birth should not be shared without permission or unless there is a legally permissible reason to do so. Education settings should follow their usual policies related to information sharing to support the wellbeing of a child or young person.

It is important to consider school and college photos and websites to ensure that these images do not reveal any confidential information. If images and names are not protected, they may be used later in a trans person's life to 'out' them as such. Ensure that all children and young people (and their parents and carers if appropriate) are aware of these risks and consent accordingly. Under General Data Project Regulations (GDPR) individuals also have the right to have personal data removed.

All people, including children and young people, have a right to privacy. Staff should not discuss trans and gender variant and young people outside of school with friends or family members, even a casual reference to a child or young person may compromise confidentiality.

3.5 General Data Protection Regulation (GDPR)

Schools and education settings are required to comply with the GDPR in respect of all children and young people (as "data subjects") and personally identifiable information relating to individuals. They will be aware of the regulations in relation to processing and sharing of personal data. Such data includes any information that can identify a person, or their family, and this sort of data remains "personal" even if an individual chooses to publicise it.

Under GDPR Article 9, 'special category data' relates to more sensitive topics which may pose a significant risk to people's privacy and which can only be processed under certain conditions.

'Special category data' includes personal data which concerns physical or mental health or sexual orientation. This guide from the UK Information Commissioner's Officer (ICO) provides further information on this data.

The GDPR does not necessarily prevent processing or sharing of personal information but requires that there is a specific and limited purpose for doing so, that the data used is proportionate to that purpose and that it is stored and shared securely. Special category data is subject to additional controls. The ICO provides helpful guidance on this area. It is vital that anyone who is considering sharing sensitive personal information about a pupil or student is aware of, and/or takes appropriate advice on, the legal implications of so doing.

3.6 ESTYN Education Inspection Framework

Under the ESTYN Education Inspection Framework:

Inspectors will assess the extent to which the school or provider complies with relevant legal duties as set out in the Equality Act 2010 and the Human Rights Act 1998 which promotes equality of opportunity and takes positive steps to prevent any form of discrimination, either direct or indirect, against those with protected characteristics in all aspects of their work.[28]

Inspectors will make a judgement on behaviour and attitudes by evaluating the extent to which:

● Leaders, teachers and learners create an environment where bullying, peer-on-peer abuse or discrimination are not tolerated.[29]

Additionally, guidance which makes clear that safeguarding action may be needed to protect children and learners from (for example):

● physical abuse

● sexual abuse

- emotional abuse

- bullying, including online bullying and prejudice-based bullying

- racist, disability and homophobic or transphobic abuse

- gender-based violence/violence against women and girls

- sexual harassment, online sexual abuse and sexual violence between children and learners[30]

To remember

Work to prevent transphobia and support trans and gender variant children and young people is supported by ESTYN, statutory safeguarding duties and the Equality Act 2010.

4 A Whole Setting Approach

4.1 Introduction

Many Vale of Glamorgan education settings are already working to ensure that the school environment and curriculum celebrates similarity, difference and diversity such that all children and young people see themselves and their families represented and valued. This Toolkit provides guidance on how to ensure trans and gender variant members of the community feel equally welcomed, represented and safe. Education settings are skilled in supporting vulnerable pupils and students and this practice can be used to inform support provided to trans and gender variant children and young people.

If a whole setting approach is taken then harmful bullying and harassment of trans and gender variant pupils, students and staff in the school community will be prevented or minimised and all pupils and students prepared for life in the modern world.

For specific guidance on creating safe learning environments for other groups protected under the Equality Act 2010 contact Learning & Skills Directorate Safeguarding Team

4.2 Role of Governors

The governing body has responsibilities under the Equality Act 2010 and for safeguarding, as described in *Keeping Learners Safe* 2022[31]. It is recommended that the Designated Safeguarding Governor has attended bespoke safeguarding training for that role and has read this toolkit. The governing body could ask questions such as the following in governor meetings:

- Can we see data on bullying and prejudice-based incidents by type?

- What is being done to challenge gender stereotypes?

- What changes have been made to policies and practice to support the needs of trans and gender variant children and young people? Have these changes been through an equality impact assessment?

- What are we doing to keep parents and carers updated on our equality practice?

4.3 Staff training

All staff need to be provided with training which develops trans and gender variant awareness and confidence in terminology and vocabulary e.g. appropriate use of pronouns and names, and in challenging gender stereotypes, sexism and transphobia. Staff working with individual trans and gender variant young people will need additional specialist training to provide pastoral support.

Teachers will need support in delivering trans and gender variant sessions and managing discussion.

- It is recommended that training is provided to staff to ensure they have a better understanding of the issues, the confidence to use the toolkit and to provide appropriate support to trans and gender variant pupils. This will lead to a more positive experience for trans and gender variant pupils when they need support. The local authority sourcing this training and anticipate rolling it out in 2024-25.

4.4 Parent and carer community

It is hoped that education settings will have positive relationships with all groups of parents and carers and will be using a range of methods to break down any barriers to enable open

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[31] https://gov.wales/sites/default/files/publications/2022-04/220401-keeping-learners-safe.pdf

and transparent conversations about equality practice. All parents and carers should feel that their child(ren) and family are represented within the setting.

Education settings will want to communicate the work they are doing to support trans inclusion to parents and carers in the context of other equality work. For example, when explaining work for LGBT History settings may want to use language such as: 'As part of our work to promote our school value of respect we are…'; or: 'As part of our ongoing commitment to improving equality and prevent bullying we are…'.

Settings may find they are approached by parents and carers about their trans and gender variant inclusive practice. Settings can listen openly and respectfully to any questions or concerns, provide information that does not break confidentiality of trans and gender variant individuals and offer the following kinds of reassurance:

- The setting acknowledges there are a diversity of views about trans and gender variant inclusion and will listen respectfully to concerns.

- The setting is working within local authority guidance and the Equality Act 2010 to prevent and respond to all forms and bullying and prejudice and to ensure all children and young people feel safe to learn.

- The setting is preparing children and young people for life in modern Britain where they are going to meet and work alongside a range of people.

- The setting is working to develop its equality practice across all protected groups and efforts are being made to ensure all groups feel safe, represented and included.

Any complaints made will follow a school complaints policy. Education settings can contact the local authority about concerns raised by members of the school community.

4.5 Policy Framework

Education settings will want to ensure that all relevant policies appropriately reference trans and gender variant pupils and students and that there is reference, where appropriate, to intersectional issues. Some examples of how to do this are identified in Appendix 5, but this is not an exhaustive list.

In Appendix 7 you will find a document that could be adapted and used as a summary of your school's approach to trans inclusion.

4.6 Transphobic and sexual bullying and harassment

For definitions of bullying and prejudice and scripts for challenging prejudice please see Appendix 4. Education settings may also want to be mindful about how so-called 'banter' or jokes are used in peer groups and can cause harm.

Education settings should ensure that they identify, record, respond to and monitor all forms of bullying and prejudice incidents.

Recording of incidents means that the wellbeing of individual pupils and students can be tracked as can the behaviours of perpetrators. This data along with data from school surveys can also be used to target preventative interventions and measure the impact of activities.

Trans and gender variant children and young people are vulnerable to bullying, as is any child or young person who does not conform to gender norms and stereotypes. Additionally, children and young people with trans and gender variant family members may also be transphobically bullied. Transphobic bullying therefore may be perpetrated by pupils, students, parents, carers or staff members and directed at:

- Children, young people and adults who do not conform to gender stereotypes or are perceived to be trans and gender variant.

- Trans and gender variant children, young people and adults in school, outside school and on-line.

- Children and young people with trans siblings, parents, relatives or friends

- Lesbian, gay and bisexual children, young people and adults.

As a key preventative measure for transphobic bullying, settings should ensure that the curriculum, assemblies and displays are used to prevent and challenge gender stereotypes and sexism. One of the reasons why gender stereotyping is harmful is because it suggests that boys and girls should present themselves in certain ways, and that failure to comply with gender stereotyping may lead to bullying and harassment.

Keeping Learners Safe 2022 has a strong emphasis on preventing and responding to peer-on-peer abuse and recognises the gendered nature of some forms of abuse in schools. Education settings may also refer to the recent publication of the Estyn report December 2021 (*Experiences of peer-on-peer sexual harassment among secondary school pupils in Wales - Supporting resources* (gov.wales), along with the Welsh Government's response and recommendations January 2022[32].

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[32] https://gov.wales/incidence-peer-peer-sexual-harassment-among-secondary-school-pupils-wales-government-response-html

Identifying the nature of any bullying will assist the school to understand and then address any trends in the school community. Sexist, sexual or transphobic bullying are not the same as homophobic or biphobic bullying. However, sexist attitudes often manifest themselves in homophobic bullying as any child or young person who is perceived as not expressing stereotypically masculine or feminine traits expected of them might experience homophobic or transphobic bullying.

Staff will need to use their professional judgement as to whether some incidents should be recorded as homophobic or transphobic but should take care not to under-record transphobic bullying.

Transphobic bullying may also occur in conjunction with other forms of bullying, including that related to additional learning needs and disabilities or cyberbullying. Trans and gender variant pupils and students may be particularly targeted with behaviours such as 'skirt lifting', 'groping' or being asked inappropriate personal questions. Again, educational settings should be vigilant in preventing and responding to all forms of sexual harassment and bullying.

If a transphobic incident occurs in a group situation and the member of staff dealing with it is aware that the child or young person is trans and gender variant but they are not 'out' to the rest of the community, the member of staff must challenge the prejudice but will need to take care not to label the incident as transphobic in front of other pupils and students, which would 'out' the person being targeted. The incident would still be recorded as a transphobic incident.

There may be occasions where transphobic bullying has wider safeguarding implications, or involve criminal behaviour; in these cases, educational settings need to engage the appropriate safeguarding agencies and or the police.

4.7 Language

It is important for all children and young people that staff are thoughtful about the use of gendered terms. For example, using terms such as 'ladies' and 'gents' may reinforce certain stereotypical ideas of femaleness or maleness. Equally asking for two strong boys to move a piece of classroom furniture implies that girls cannot be physically strong.

In addition, care needs to be taken to avoid excluding those who do not identify as male or female (e.g. who are non-binary), and not to make assumptions about someone's gender identity based on their gender expression. The Vale of Glamorgan supports schools to consider using language which does not reinforce a binary approach to gender particularly when the gender of a person or people being referred to is not known. A trans boy who is

referred to as a girl or a trans girl who is called a boy and non-binary students will feel excluded by this language. Settings can develop a repertoire of gender-neutral language, and the use of pronouns that reflects their community, including words such as learners, Year 8, folks, partner, all genders, everyone etc. and use when appropriate.

The purpose of this thoughtful use of language is not to deny sex and gender as important parts of identity, in fact we need to use binary language to talk about sexism, sexual harassment and sex specific life experiences. Equally, it may be appropriate to use sex-specific language such as 'mum', 'grandma' or 'him when referring to someone specific whose sex/gender is known.

4.8 Curriculum

Relationships and Sexuality Education (RSE) and Curriculum for Wales

RSE is a statutory requirement in the Curriculum for Wales framework and is mandatory for all learners from ages 3 - 16.

The Curriculum for Wales guidance sets out the legal status of RSE in the framework and identifies the legislative duties of schools and settings in terms of the development of and curriculum planning for RSE. [33]

> 🛈 RSE is a mandatory element of the Curriculum for Wales Framework and a curriculum must accord with the RSE Code. This means schools and settings must include the learning set out in the Code. A curriculum does not encompass RSE unless it accords with the provision in the RSE Code. Learning and teaching also does not encompass the mandatory element of RSE unless it accords with the provision in the RSE Code.
>
> The RSE Code is set out and signposted in the **RSE section** of the Framework guidance.
>
> This Code is issued under section 8 of the Act.

The RSE Code sets out the themes that must be encompassed in a school's RSE curriculum. It consists of three inter-linking strands:

- relationships and identity

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[33] https://hwb.gov.wales/curriculum-for-wales/summary-of-legislation/#relationships-and-sexualityeducation

- sexual health and well-being
- empowerment, safety and respect

The Curriculum and Assessment (Wales) Act 2021 requires that a school or setting's RSE must be developmentally appropriate. To support practitioners in this, the RSE guidance sets out phases within each of the strands that allow practitioners to decide if learning is developmentally appropriate.

As well as having strong links with learning and experiences within the health and well-being Area, RSE is also a cross-cutting theme, which means that schools and practitioners must have a methodology for designing their curriculum that allows learners to develop, where appropriate, their understanding of RSE through a whole-school approach which should include learning and experiences in each Area. The 'designing your curriculum' section within each Area's guidance includes support on how each Area can contribute toward authentic RSE learning.

Inclusivity, including LGBTQ+ inclusivity

In keeping with the mandatory requirements of the RSE code, teaching and learning should be inclusive, and in line with the principles of equality. This helps ensure that all learners can see themselves, their communities and families reflected across the curriculum, and can begin to value difference and diversity as a source of strength. This includes gender equity and LGBTQ+ inclusivity.

In terms of what this means for schools the following questions will be useful to consider:

- How well does the curriculum incorporate developmentally appropriate discussion of LGBTQ+ issues? Deciding when to introduce teaching and learning about what LGBTQ+ and the terms within the acronym mean, lies with schools and should reflect when they think it is developmentally appropriate to introduce it to their learners. The statutory guidance states that this needs to be responsive to learners' needs, their experiences and their developing knowledge.
- Do learners experience positive LGBTQ+ role models through the curriculum?
- Do the resources you use provide a range of different, diverse and inclusive examples of individuals, identities, families, relationships, race, ethnicity?
- Are the resources used to teach learners about the different types of families inclusive of the range of families within the school, the community, society etc. (this isn't just about same-sex families but also families headed by grandparents, single parents, adoptive parents, families from different faiths etc.). This helps to develop learners' understanding of diversity, equity, tolerance, respect and rights in ensuring the fair

treatment for all. It also encourages acceptance of difference, challenges discriminatory behaviours and supports much of the learning and key ideas within the empowerment, safety and respect strand.

- Do pupils of all ages have access to a diverse range of resources including those that show stereotypical and non-stereotypical gender expressions, masculine girls and feminine boys, trans and gender variant people and men and women in a wide range of careers?

- Do displays around the school challenge gender stereotypes, actively celebrate different families and LGBTQ+ people?

- Do pupils have the opportunity to participate in events that address LGBTQ+ issues and celebrate diversity? School could make use of events such as LGBT History Month (February), International Trans Day of Visibility (31March), LGBTQ+ Pride month (June) and Trans Awareness Week (November) as opportunities for further work.

- To what extent do schools draw on the views of learners, including LGBTQ+ pupils, to influence curriculum design?

How can we make RSE more inclusive for trans pupils?

- Ensure that gender neutral and inclusive language is used. For example, when talking about relationships use terms such as 'partner' rather than, or as well as, 'boyfriend or girlfriend'. When discussing families, use 'grown up' rather than, or as well as, 'mum or dad'. When talking specifically about known family members or relationships, gender specific language is appropriate.

- Use gender-neutral names when designing some case studies, scenarios or characters.

- Represent trans and gender variant people in scenarios and resources used.

- Start any teaching around puberty and bodies by highlighting that all people's bodies and genitals are different and that there will be a diverse range of responses to puberty.

- When labelling the genitals consider stating that most, rather than all, boys have a penis and testicles and most, rather than all, girls have a vulva and vagina.

- Present sexual health information with an awareness that trans and gender variant young people may feel that their body does not sit comfortably with their gender identity.

- If you know you have a trans and gender variant pupil in the class, some pre-planning and one-to-one support may be necessary to ensure the learner gets the information they need in a way that feels supportive to their gender identity.

Supporting learners' needs

Some teaching and learning approaches may make trans and gender variant children and young people feel confused, excluded or uncomfortable. Putting children and young people into single sex groups may have this effect. There may be times when single sex groups are needed, including for aspects of relationship and sex education or to support the learning needs of groups (e.g. boys and literacy). Providing a clear need is identified, the Equality Act 2010 allows for such provision.[34] However, it is recommended that school staff only group by sex when it is educationally appropriate. Speak to the trans and gender variant child or young person in advance and decide whether any additional support is needed.

Resources

Many resources are available online that provide schools with advice about how to go about creating a LGBT+ inclusive curriculum. As a local authority, we don't particularly endorse any specific resources. Much of the resources available relate to the Relationships, Sex and Health Education curriculum (RSHE) in England although there are many areas of cross-over with the RSE Code.

https://www.stonewall.org.uk/best-practice-toolkits-and-resources-0
https://www.theschoolrun.com/learning-about-lgbt-issues-primary-schools
https://healthyschoolscp.org.uk/pshe/lgbt/

There are many more resources available on HWB, on all aspects of RSE:

Repository - Hwb (gov.wales) including a four page guide summarising the changes to RSE which could be helpful for parents. In addition, resources are also available on the Central South Consortium (CSC) website Repository - CSC (cscjes.org.uk), including case studies and example activities to support the development of the RSE framework within schools.

To remember

- Many schools have existing good practice that promotes equality and supports the needs of individual children and young people.
- Trans inclusion should be referenced across the policy framework.

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[34] Equality Act; Advice for Schools (2018) p17 https://www.gov.uk/government/publications/equality-act-2010-advice-for-schools (Retrieved 13.10.22)

- Schools should challenge, record and monitor all incidents of bullying and prejudice by type.
- The curriculum and particularly RSE can be used to develop understanding of family diversity, sexual orientation, gender stereotyping and gender identity and to prevent sexism, homophobia, biphobia and transphobia.

5 Supporting the individual trans and gender variant child or young person

5.1 An individualised approach to support

There is not a one-size-fits-all approach in supporting a trans and gender variant child or young person. Allocating a key member of staff, as would be done for any other vulnerable pupil or student, is an important first step.

It is vital that each child and young person is met with the kindness, compassion and support needed to keep them and their peers safe and well. There may be additional challenges for trans and gender variant pupils and students from certain faith or cultural backgrounds or who have an additional learning need or disability. It is important for education settings take into account, as far as possible, all aspects of a child's identity and experience in considering how to best support and respond to the child. Each journey will be unique.

Non-binary children and young people

Certain sections of this guidance refer to binary trans children and young people, however the principles of this toolkit and the sections related to pronoun change, dress, curriculum and gender stereotyping are relevant to the inclusion of non-binary children and young people.

Gender exploring

It is important to acknowledge that some children and young people will go through a period of exploring their gender identity. Over time some of this group may realise they are comfortable with their registered sex, for others this may be part of a longer journey. This exploration can come in many forms and appear at different ages. It may include using a different name and or pronoun. It may include exploring gender expression, for example by changing in what a child wears or how they present, while for others it may relate to their sexual orientation.

The Royal College and Paediatrics and Child Health calls on Health professionals to:

Help parents, schools and other agencies to adopt a supportive, flexible and responsive attitude to affirm a child's expressed sexuality and gender, whilst being sensitive to change over time. This will involve making appropriate adjustments.[35]

Coming out

It is important to recognise that coming out is a hugely significant step in any LGBTQ+ person's journey and the initial response can have a lasting impact on the individual. The choice to come out is a personal one and will happen when the time feels right for the child or young person. They may come out to some people and not others, may share it very openly in school or a wider community or only want one person to be aware.

If a child or young person makes the decision to come out to you, it is a big step and suggests that you are a trusted person in their life. Acknowledge what they say, be empathic and thank them for speaking with you. If you aren't sure about terms the young person is using it is okay to ask. A first step may be to gently ask some questions 'Can you tell me more about how you feel…?' 'How long have you been thinking this…?' 'Have you spoken with anyone else / family members…?'

- A "watch and wait policy, which does not place any pressure on children to live or behave in accordance with their [sex registered at birth] or to move rapidly to gender transition"[36] should be adopted. (2018 position Royal College of Psychiatrists)

It is important to be mindful that, for changes such as names and pronouns to be acknowledged in the wider community, a level of information sharing will need to happen amongst staff and pupils. This should, as much as possible, be led by the child or young person and their family asking for these changes.

- Whilst a child or young person and their family may be keen to come out and make transitions as quickly as possible, school staff may need to work with them to ensure they are supported and manage this process thoughtfully. This will help to ensure the safety of the child or young person who is coming out and to support their peers in understanding any changes.
- The Cass Review considered that 'Social Transition', was not a neutral act and "may have significant effects on the child or young person in terms of their psychological functioning. This is why a "watch and wait" approach is essential,

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[35] RCPH Supporting LGBTQ+ children and young people https://www.rcpch.ac.uk/resources/supporting-lgbtq-children-young-people#key-messages-for-health-professionals
[36] Retrieved from PS02_18.pdf (rcpsych.ac.uk)

there are different views on the benefits versus the harms of early social transition, whatever position is taken it is important to acknowledge that it is not a neutral act, and care needs to be taken to ensure that no young person rushes into the process without a thorough understanding of its implications.

In some education settings, the child or young person may have transitioned in a previous school setting. School staff should be mindful that this child or young person may only have come out to a small number of school staff or their peers and, as such, their information must be kept private and confidential (unless confidentiality needs to be broken for safeguarding reasons).

5.2 Working with the parents, carers and siblings of trans and gender variant pupils and students

As a key principle, education settings will want to work in close partnership with parents and carers. Parents and carers will often be the ones to approach the setting about the needs of their trans and gender variant child.

Many parents and carers of a child or young person who comes out as trans and gender variant will be supportive of their child although they may also experience some shock, concern, and grief for the child they feel they may lose and the future they imagined for them. They may also fear community reactions and extra time, support and care will need to be offered to these parents.

Difficulties will arise for schools where a child who wants to make a social transition at school does not wish their parents to be consulted or notified. As was pointed out in the interim Cass Report, social transitioning is not a neutral act because it may have significant psychological implications for a child. This being the case, schools should not support a child or young person under the age of 18 to socially transition without involving the learner's parents in the process.

If there is strong reason for concern that informing a parent could have a detrimental impact on the wellbeing of a pupil, schools should seek advice from the Education Safeguarding Officer who will support the school in their decision making and seek further advice if required.

5.3 Transition

Transition can be divided into 'social' and 'medical' transition. Decisions about medical transitioning will not be taken by schools, but schools must be aware that social transitioning makes subsequent medical transition more likely, and that social transitioning is not therefore to be regarded as 'neutral'.

Social transition

As stated above, schools should not support a child or young person under the age of 18 to socially transition without involving the learner's parents in the process. It may also be possible that parents and carers will seek to prevent their child from making any steps towards a transition and extra time, support and care will need to be offered to this family.

In the case of secondary aged pupils, if there are concerns that the refusal of parents' agreement is having a serious impact on the young person's mental health and wellbeing the school should seek professional advice from the Education Safeguarding Officer who will support the decision-making process and seek further guidance if required.

In these circumstances, it may be necessary to determine whether the child is *Gillick* competent to make such a decision.

Gillick competence

This is a term used to indicate a child's competence to make decisions for themselves. For many practical purposes parents are trusted to make important decisions in the best interests of their children. Where the views of parents and children differ, or where children do not want their parents to be involved, it will be necessary to determine whether the child is competent to make the decision themselves (this is referred to as *Gillick* competence).

Gillick competence is judged in relation to the particular decision in issue and not in the round. There is no definitive set of questions which need to be asked but appropriate professionals will need to consider:

- the child's age, maturity and mental capacity;

- their understanding of the issue and of the advantages, disadvantages and potential long-term implications of the decision;

- their understanding of the potential risks;

- the child's ability to understand any advice or information they have been given;

- the child's understanding of any alternative options, if available;

- the child's ability to provide a rationale for their decision.

When determining *Gillick* competence in the context of social transitioning it will be necessary to consider the specific question whether the child is sufficiently mature to make the relevant decision(s) without the support of their parent(s).

When children are not *Gillick* competent, decisions may be made in their best interests by parents or appropriate professionals.

A social transition could include:

- A name change

- A change in pronoun (he, she, they, zie etc.)

- Wearing clothes that are associated with the individual's gender identity*

*Of course, not all children and young people who wear clothes associated with a gender different to that of their sex registered at birth are trans and gender variant. Education settings should provide for a wide spectrum of gender expressions and be open to the diversity shown by children and young people. It is vital that work on sexism, gender expression, gender stereotyping and, particularly, masculinity and femininity is done across the school to ensure all children and young people feel respected in their gender expression. Equally, a trans and gender variant person may choose not to wear clothes stereotyped as fitting their gender identity.

A child or young person's goals in terms of transition may change over time and the support offered needs to reflect this. For example, a child or young person may start on a transition pathway, realise this isn't the right path for them and reverse some or all aspects of their social transition.

Be aware that some pupils and students, including those with ALN, may not feel the same pressures or awareness of 'fitting in' socially, or may have empathy differences that make it difficult for them to understand their families or friends' perspectives or feelings. Once they have 'come out' to one person they may have unrealistic ideas or timeframes about how their journey will progress, and this can leave little time to build a supportive plan. Schools will need to develop plans that meet the needs of an individual but provide effective support for them and the wider community.

Some trans and gender variant pupils and students will need support in developing scripts and responses to questions they may be asked about their transition. This may include phrases such as 'It's none of your business…' 'I have always been a boy / girl'. 'Non-binary means...' This support can be provided, where it reflects the individual pupil's belief, by a trusted adult at school, working in collaboration with a child or young person's family and another appropriate professional.

According to Estyn "The most effective schools and colleges respond flexibly to the needs of the learners and understand that the transition journey is unique to each individual young person. In these cases, they work well with pupils, learners and their parents to plan the transition process. They communicate this to other members of the school or college community sensitively. This eases the transition journey and reduces instances of transphobic bullying."

Medical transition

It is not the role of educational settings to make decisions about medical treatment. Some children and young people may undergo medical treatment related to transition while at school, but many others will not.

Coming to terms with being trans and gender variant can be a difficult time at any age. Starting the initial stages of medical transition can be particularly demanding for a young person and their family. This can be exacerbated by long waiting times to access medical support and the lengthy assessment process involved. It is therefore a time when support is likely to be needed.

Pupils or students needing time off for a medical appointment should be recorded with an M code.

5.4 Timing of transition (including primary to secondary transfer)

Schools will have pupils and students at different stages of transition including those who have transitioned prior to attending their school. Circumstances will vary and the level of and type of support needed will vary according to the individual and their stage of transition.

Some trans and gender variant children may socially transition at primary school. Before they move on to secondary school, the following is recommended:

- Have a meeting with the child (and their parents or carers) to find out if they have any worries and discuss how they would like any issues that arise to be managed

- Allocate a named contact or 'trusted adult' for the child to approach if issues arise during the school day. This will limit the number of adults they will have to come out to or explain their story to if there are any challenges.

Some children and young people, with support from their families, may make a transition into their preferred gender identity at a point when they are changing schools. Secondary schools will therefore need to be particularly aware and supportive of children transferring from a primary to secondary school. Where the child/young person are in agreement and there is no evidence to suggest that there is a cause for concern in relation to that particular pupil/young person, the school will work with students from the original primary school which would be aware of this change.

All settings should be able to effectively support a trans and gender variant child or young person, including those transitioning.

5.5 Pupils and students with additional vulnerabilities

Intersectionality

All educational settings should recognise the uniqueness of their children and young people, address their needs holistically and challenge all forms of prejudice.

Additional Learning Needs & Disability

Children and young people with Additional Learning Needs (ALN) may need additional support in understanding or accepting their own identity, learning about those who are different to them, and understanding that difference is to be respected and celebrated.

Staff, parents, carers, and wider professionals may need support in understanding that a child or young person with ALN or Disability is just as likely to be lesbian, gay, bisexual, trans and gender variant as any other person. There is developing research showing that there is a higher prevalence of autistic people who are trans and gender variant. There is likely to be a range of reasons for this. The National Autistic Society includes articles on its website about this.

It is important that a child or young person's words or actions are not automatically attributed to their ALN or Disability, for example, preferences for clothing types or hair length being seen as a sensory need, or behaviours described as a new special interest, fascination, curiosity or phase. Whilst this may be true in some instances, it is important to listen without judgement so that expressions of questioning gender identity are not dismissed.

Emotions related to gender identity are complex for anyone to understand and express, and this could be exacerbated in those with communication and interaction difficulties.

Some children and young people with ALN or Disability may not see the need to communicate and may not understand that others don't already see them in the same way as they see themselves or know themselves to be. This could obviously lead to increased frustration and anxiety and impact negatively on well-being and mental health. Providing one-to-one support for the child or young person to explore issues in a non-judgmental, safe way with conversations that go at the child's pace will be important.

Differences in social understanding, empathy and communication may mean specific support is needed. Tools such as Mind Mapping, Comic Strip Conversations and Social Stories may be useful to support communication and understanding.

In addition, there may be potential increased vulnerabilities of a young person with ALN. Staff will need to give increased support as needed and teach children about safety including online.

Black, Asian and Minority Ethnic (BAME) children and young people and children and young people from faith backgrounds

BAME trans and gender variant people are likely to face discrimination based on their race and gender, and this can make seeking support harder. By coming out as trans and gender variant some children and young people of faith may risk losing their communities.

All major faiths have LGBT inclusive groups, and these may be a helpful resource for professionals and some children, young people and their families.

In conversation with children, young people and their families, education settings may also encourage, if appropriate, the seeking of support from faith, cultural and community leaders or groups.

CLA-Children Looked After

Children and young people who are living in a care setting or have experienced care are likely to come with additional vulnerabilities due to their experience. This could include previous traumas, attachment difficulties and challenges with managing emotions. For children living in care, it will be vital that the communication between professionals, school, carers and child is clear and transparent.

Children in care who are wishing to change their name legally may have additional challenges due to the differing levels of legal responsibility the adults around them have to input into legal decision making. This may mean that a child may not be able to change their name by deed poll until they are 16; the position should be clarified with the child's social worker. Schools should be alert to this issue and ensure that where appropriate, they are able to support the child to use a preferred name in their setting where possible.

Children and young people in care may often have experiences of neglect and feeling unheard. Further frustrations around a delayed name change is likely to amplify these feelings.

If a looked after child wants to be known by a different name, it important to share this with their social worker. The social worker can take legal advice on steps to achieve this, if it is considered to be in the child's best interests.

The child or young person in care may have to come out multiple times to various professionals involved in their care. Equally, they may only come out to one person but find multiple people are aware. The child or young person should be informed of what information is being shared and to whom.

- Youth Cymru (youthcymru.org.uk / mailbox@youthcymru.org.uk / 01443 827840). It runs TransForm Cymru and Belong (Julia@youthcymru.org.uk).

- I AM ME is a youth club for LGBTQ+ young people and allies with the aim of creating safe spaces to express themselves and explore their identities. It offers LGBTQ+ training on topics such as healthy relationships, internet safety and confidence building. Contact Georgia Young for information, Youth Engagement Officer for information (gyoung@valeofglamorgan.gov.uk)

- Umbrella Cymru provides information on social and support groups, clubs and forums on its website.

- CYPF (Children, Young People and Families provides links to LGBTQ+ specific resources.

- Glitter Cymru is a Cardiff based community organisation of ethnic minority LGBTQ+ people. It lists resources on its website:

To remember

- Follow the lead of the child, young person and their family, maintain confidentiality where appropriate and take appropriate, timely action that protects the wellbeing of those involved.

- Be alert to any safeguarding concerns and use the appropriate safeguarding procedures.

- Consider all aspects of a child and young person's identity in the tailoring of support.

- Transitioning is a unique journey.

- Make use of local and national specialist support services.

6 ESTYN guidance and managing specific issues for trans and gender variant children and young people

6.1 Estyn guidance

The specific issues covered in this section are complex. Estyn has produced "Celebrating diversity and promoting inclusion: Good practice in supporting lesbian, gay, bisexual and transgender (LGBT) learners in schools and colleges", October 2020.

The good practice guide recognises the challenges facing school leaders and states that:

"*Effective leaders recognise that there are no standard or simple solutions to these challenges, and there is a need for dialogue with all involved. In schools and colleges that are sensitive to the needs of transgender learners, staff liaise well with parents and carers*

to address the challenges they face and modify provision where needed. In most schools, staff reassure parents of transgender pupils that they will act to tackle discrimination against their children and that they will not tolerate homophobic, biphobic and transphobic bullying.

The guide comments specifically on how schools can take into account the needs of trans learners, as follows:

In schools and colleges that are sensitive to the needs of transgender learners, staff liaise well with parents and carers to address the challenges they face and modify provision where needed. In most schools, staff reassure parents of transgender pupils that they will act to tackle discrimination against their children and that they will not tolerate homophobic, biphobic and transphobic bullying. However, only a small proportion of schools are truly effective in addressing this issue and, in too many cases, bullying of transgender pupils impacts negatively on their school experience.

In a majority of secondary schools and colleges, leaders consider how sex or gender-specific features and facilities, such as toilets, changing rooms and school uniform requirements, impact on the lives of transgender learners. In the best cases, leaders do not make assumptions about their needs, but work with them sensitively to adapt provision and ensure that they can access the most appropriate facilities given their needs and the nature of the school or college building.

Often, schools and colleges are limited as to the physical changes they can make to facilities because of the limitations of the building and available budgets. In the best cases, where they are making changes to their facilities or planning a new build, they consult with all learners including any LGBT groups to consider their opinions. However, too frequently when considering the construction of new buildings, schools and colleges do not consider provision for transgender learners well enough.

The guidance also contains useful 'Self-evaluation questions to support LGBT inclusion' in its Appendix 1.

Education settings should consider the guidance below and apply on an individual, case by case basis. In making these complex decisions schools will be fully supported by local authority officers as appropriate.

6.2 Access and safety for all

The Equality Act promotes access to facilities, the curriculum and extra-curricular opportunities to all children and young people.

Education settings will engage with children and young people who are at various stages of exploring their identities or transitioning. This includes, but isn't limited to, those who are just coming out as trans and gender variant, those who have come out as non-binary, those who have socially transitioned either partly or fully and those who are exploring their gender identity with no fixed pathway. As we say above, most but not all [trans] [gender variant] children and young people will have the protected characteristic of "gender reassignment" but this does not provide an entitlement to be treated as if they were of the other sex. There is no legal obligation on a school to allow trans and gender variant pupils to use single sex facilities such as toilets, changing rooms or single sex bedrooms on school trips.

However, schools are required to demonstrate that they are giving full consideration to the needs of the trans or gender variant pupils alongside the needs of all other pupils and make "reasonable adjustments" in order not to treat trans or gender variant pupils less favourably than any other person who has a protected characteristic.

When making decisions, schools will need to be mindful of the impact on other pupils of having a pupil of a different sex present in single sex facilities. It is recommended that schools carry out equality impact assessments when making changes to provision with the purpose of reducing or preventing any potential negative impacts of changes. See Appendix 8 for an example format. For more advice on individual cases, showing due regard and undertaking Equality Impact Assessments please contact the Equality team or the Learning & Skills Directorate Safeguarding Team - safeguardingeducation@valeofglamorgan.gov.uk.

Education settings should keep a record of their decision making, including their consideration of equality implications, and should keep the implications of policies and significant decisions under review.

6.3 Toilets and Changing Rooms

The Education (School Premises) Regulations 1999 which apply to all schools maintained by Local Authorities in Wales, provide (Regulation 3) that separate toilet facilities must be provided for boys and girls aged 8 years or over except where the toilet is in an individually lockable room containing a single toilet and washbasin, with or without a shower or deep sink, which opens directly onto a circulation space other than stairs.[37]

Anecdotal feedback from trans and gender variant children and young people is that many will opt for a gender-neutral toilet for fear of bullying or harassment rather than a large multi occupancy single sex facility.

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[37] https://www.legislation.gov.uk/uksi/1999/2/regulation/3/made (Retrieved 18.10.22)

Estyn found that, in a majority of secondary schools and colleges, leaders consider how sex or gender-specific features and facilities, such as toilets, changing rooms, impact on the lives of transgender learners. In the best cases, leaders do not make assumptions about their needs, but work with them sensitively to adapt provision and ensure that they can access the most appropriate facilities given their needs and the nature of the school or college building.

Often, schools and colleges are limited as to the physical changes they can make to facilities because of the limitations of the building and available budgets. In the best cases, where they are making changes to their facilities or planning a new build, they consult with all learners including any LGBT groups to consider their opinions.

Any pupil or student who has a need or desire for increased privacy, regardless of the underlying reason, should be provided with a reasonable alternative, such as the use of a private area or with a separate time to change. Any alternative arrangement should be provided in a way that protects the child or young person's ability to keep their trans status confidential.

Ideally, where funding and space allows; educational settings should provide pupils and students with access to a mixture of toilets including:

- single sex toilets

- blocks of floor to ceiling cubicle toilets which open directly onto a circulation space other than stairs that can be used by all, with bins for menstrual products in each cubicle ('toilets for everyone')

- accessible toilets.

The Education (School Premises) Regulations 1999 also provide (Regulation 3(7)) that schools must provide "changing accommodation including showers … for pupils who have attained the age of 11 years and who are in receipt of physical education".

The Equality and Human Rights Commission's document *What Equality Law Means for You as an Education Provider in Wales* makes no reference to trans and gender variant pupils. The EHRC's Technical Guidance for schools in England, however, states as follows:

A school fails to provide appropriate changing facilities for a transsexual pupil and insists that the pupil uses the boys' changing room even though she is now living as a girl. This could be indirect gender reassignment discrimination unless it can be objectively justified. A suitable alternative might be to allow the pupil to use private changing facilities, such as the staff changing room or another suitable space[38].

The use of changing rooms by trans and gender variant children and young people should be assessed on a case-by-case basis in discussion with the individual child or young person. Like with all children the goal should be to maximise social integration and promote an equal opportunity to participate in physical education classes and sports, ensuring safety, comfort and focus on their wellbeing.

As stated above, there is no legal obligation on a school to allow a trans and gender variant pupil to use a single sex changing room reserved to pupils of the other sex, and schools will need to be mindful of the potential impact on other pupils of having a pupil of a different sex present while they are in a state of undress.

6.4 PE and sports

PE will generally be mixed sex in primary schools and so trans and gender variant pupils are unlikely to be excluded because of their sex. At secondary level PE lessons are more often segregated by sex. Determining whether a trans and gender variant pupil whose transition is being supported by the school should be permitted to engage in such lessons with pupils of the other sex will require risk assessment to be carried out in relation to the trans and gender variant pupil and to the other pupils involved. See Appendix 9 for an example format. For more advice on individual cases, and on completing the Risk Assessment, please contact the Learning & Skills Directorate Safeguarding Team - safeguardingeducation@valeofglamorgan.gov.uk.

Estyn recognise that many schools and colleges allow transgender learners to participate in team sports with the gender with which they identify, unless there are specific safety concerns that prevent this from occurring.

The Equality Act permits the sex segregation of "gender affected activities" of a competitive nature. A gender-affected activity is "a sport, game or other activity of a competitive nature in circumstances in which the physical strength, stamina or physique of average persons of one sex would put them at a disadvantage compared to average persons of the other sex as competitors in events involving the activity", taking into account the "age and stage of

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[38] https://www.equalityhumanrights.com/en/publication-download/technical-guidance-schools-england (Retrieved 13.5.21)

development of children who are likely to be competitors".[39] Where the sex segregation involves discrimination because of gender reassignment it will be permissible where necessary in the interests of fairness or safety.

It is unlikely that, pre-puberty, a trans and gender variant child would have a sex-related advantage in competing and representing a school or would pose any safety risk to other competitors by reason of their sex. Consideration will have to be given, however, to the suitability of changing facilities at an 'away game' and staff should ensure that appropriate provision is available.

6.5 Residential trips

Determining suitable accommodation on residential trips will require consideration of the privacy interests of the trans and gender variant pupil and of other pupils with whom they may be accommodated, as well as potential safety and safeguarding issues. Appropriate risk assessment should always be undertaken. Placing pupils in a position of having to undress (knowingly or unknowingly) in the presence of pupils of the other sex may give rise to challenge under the Equality Act 2010 or the Human Rights Act 1998, not least where pupils come from religious or other backgrounds which require modesty. Schools will need to consider whether any information relating to the trans and gender variant pupil will need to be shared with others involved (professionally or as pupils) in any residential trip. Such information should not be shared without consent, but a refusal of consent may impact on whether and how a trans and gender variant pupil may participate in a residential trip.

Estyn state that on residential trips, schools and colleges work sensitively with all parties to consider sleeping arrangements. In the case of overseas trips, staff consider carefully the possible implications of official documentation, such as passports, not matching the pupil or learner's self-identified gender and the legal protection available in the destination country to learners who are lesbian, gay, bisexual or transgender.

6.6 Uniform and dress

When schools have agreed to support a pupil to socially transition, they should be able to dress in a manner consistent with their gender identity. Beginning to dress in the clothes associated with one's gender identity can be a big and potentially daunting step. Care must be taken to ensure that trans and gender variant children and young people are supported fully during this time as it may be a very visual representation of the transition process.

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[39] https://www.legislation.gov.uk/ukpga/2010/15/section/195 (Retrieved 18.10.22)

Having a non-gendered school uniform list would be supportive to all pupils and students and particularly those who do not conform to gender stereotypes and those who are trans and gender variant. By allowing children and young people to choose what they wear, schools will allow for regulated structure and remain inclusive.

Staff training is recommended to ensure that all staff understand what it means to be trans and gender variant. RSE programmes will explore gender stereotypical ideas that to be a woman or a man one has to look a certain way.

According to Estyn many schools and colleges with transgender learners recognise that they may want to alter how they dress to reflect their gender identity and a few schools now ensure that all approved uniform items are available to all young people, whichever sex or gender they associate with most closely. Recent Welsh Government statutory guidance provides clear instructions for governing bodies on the contents of their school uniform policy.

6.7 Name and pronoun changes

Some trans and gender variant children and young people may wish to change the name they are known by and their pronoun (e.g. he, she, they). Often this will be supported by and in communication with parents and carers. Some people who consider their gender identity as not fitting into a binary (boy/girl or man/woman) may use gender neutral pronouns (for example, 'they' or 'zie').

When the decision has been taken to support a pupil's social transition at school, respecting the pupil's preference as regards name and pronoun will be an important aspect of this support

Staff should seek to be consistent in their use of preferred names and pronouns, to protect a child or young person's confidentiality and to not 'out' them in ways that may be unsafe and exposing. If a mistake is made with a name or pronoun, then this can be apologised for.

Staff will need to work with the trans and gender variant child or young person to agree how to communicate any changes to names and pronouns to their wider staff team.

School Data Recording; name and gender

The Education (Pupil Registration) (Wales) Regulations 2010, provides that schools must have a register of pupils by (legal) 'sex' registered at birth.

Schools are not required by the Regulations to refer to a trans pupil as they are registered and if the decision is made to support the social transition, the name can be changed in these contexts.

Forename and deed poll

The law is clear that a child over the age of 16 has the right to change their legal name by deed poll without the consent of those with parental responsibility (PR). For a child or young person under 16, consent from all those with parental responsibility is required to change a name legally. Where there is an absent parent or lack of parental support this will hinder the process.

If the pupil does not legally change their name schools can still support their wishes to be known by a different name if it is considered in their best interests to do so but the register should still show the pupil's original, legal name and sex.

Although some young people may feel that they want to change their name by deed poll, others may not feel that this is a step that they are ready or able to take. This will mean that, although they may have established themselves within the school under a chosen name, they will have to use their birth name when filling in exam documentation.

This could potentially be a source of distress for that individual and care should be taken by staff to support the young person. Staff should remain sensitive and supportive during such times.

Legal name field and exams

To make changes to the child or young person's Legal Name field, evidence is required. This evidence is generally a deed poll.

Theoretically, young people can be entered under any name with an exam board and it is possible for exam certificates to be issued in the name asked for, but this will require careful thought. Schools and colleges should ensure a strategy is agreed with the young person and their parents and carers, then agreed with the various exam boards prior to starting accredited courses, as some exams may be sat in Year 10 and the length of time the process of re-registering may take has to be considered. Exam boards may be experienced in working with trans children and young people and be able to guide the school or college through the process. It is possible to change names on exam certificates but there may be a charge for this.

Once an exam result is accredited it will be linked with a Unique Pupil Number (UPN) or Unique Learner Number (ULN) which existed in the school census information submitted in

January of the exam year. UPNs and ULNs are only linked with legal, rather than preferred, names (the term "legal name" refers to the name in which a pupil or student arrives in education for the first time; this is often the name on their birth certificate).

Recommendations:

- When sending data about the pupil or student to third parties always ensure you are sending the correct information.

- Ensure that the selected name is used on exam certificates before being sent to pupils and students.

- Engage with the pupil or student as well as their parents and guardians to agree a strategy for presenting the correct information to the examination boards.

- The examination officer should contact the relevant exam board to discuss their processes.

Gender and the school census

The School Census requires the recording of gender as male or female. This may be particularly problematic for pupils and students who identity as non-binary. Government guidance clarifies that self-declared gender can be recorded in the Schools' MIS and this is possible with the Schools' current MIS solution (SIMS.net).

Gender should be self-declared and recorded according to the wishes of the parent and / or pupil. Individuals are free to change the way their gender is recorded.

According to Welsh Government, it is not currently a requirement to record non-binary students as such in the School Census, however this is under review and may change.[40]

6.8 Confidentiality and information sharing

All people, including children and young people, have a right to privacy, although that right is not absolute. Information about a pupil's gender identity, legal name, and sex registered at birth may also constitute confidential information.

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[40] The 2022/23 School Census guidance is **at** https://gov.wales/sites/default/files/publications/2022-08/technical-completion-notes-for-local-authorities-and-schools-plasc-2023.pdf

Please see sections 3.3 & 3.4 for further information.

6.9 Work experience

Where an educational setting is considering a work experience placement for a trans and gender variant student, the setting must complete a suitable assessment of the potential placement to establish if there is any risk (physical or otherwise) associated with the placement and whether the placement is otherwise suitable for the student. In making this assessment the educational setting should take account of the fact that, as a general principle, personal information relating to the young trans and gender variant person must not be shared without consent. Schools must be sensitive to this in their planning before any trans young person is placed in any business or organisation. Careful discussion about any proposed placement with the students and parents and carers needs to happen as early as possible to ensure it is suitable and successful.

6.10 Vaccinations

Historically, vaccinations have been given to young people together in a large space such as a sports hall. Consideration should be given to trans and gender variant pupils and students if the vaccination is sex-specific i.e. a trans boy might find it very difficult to stand in a queue of girls awaiting a female-specific vaccination, or to be left behind when pupils of one sex are invited to leave class for a vaccination.

The Cardiff & Vale of Glamorgan University Health Board is usually allocated a school hall setting for the vaccination session and pupils attend the hall and vaccinations are given to pupils in a mixed queue. Privacy screens set up at the session especially for a young person whose clothing may not provide easy access to their upper arm for the purposes of vaccination.

The nursing staff at the session should be respectful and maintain pupils' dignity at all times.

Catch up clinics are also offered at smaller locations outside of school hours for those pupils who were absent at a school session and for very anxious pupils who would prefer to attend a quieter session or would like to be accompanied by a parent/guardian.

6.11 Dealing with the media

All media enquiries about trans and gender variant students should be directed to the Council press office (press@valeofglamorgan.gov.uk). Statements should emphasise the Council's commitment to tolerance, inclusivity, equality and acceptance. It is important to

stress that the purpose of the toolkit is to ensure that all pupils and students are safe from bullying and feel valued. At all stages the confidentiality of individuals should be protected.

A complaint about press coverage can be made to the Independent Press Standards Organisation via www.ipso.co.uk/

To remember

- Staff are best placed to evaluate how to balance any competing sensitivities whilst actively promoting the welfare and equalities of trans and gender variant students.
- Provide a choice of uniform which allows children and young people to exercise choice in what they wear.
- When agreement has been reached to allow a child or young person to transition socially at school, staff should endeavour to use their preferred name and pronoun.
- Wearing non gender stereotypical clothes does not mean that someone is trans.
- Schools should provide support where an official name change has not been made in preparation for exams.
- A change of name by deed poll is not required to make a change to school records on school database systems such as SIMS.
- Seek support from local authority officers if you are not sure how to support an individual and their family.

7 Trans and non-binary staff and governors

This toolkit does not cover the needs of trans and gender variant staff and governors. However, trans staff and governors can experience similar challenges to those outlined in the Toolkit including bullying and harassment. Education settings are encouraged to think about ensuring they have effective policies and practice in place to support these staff members. Unions may be useful for this purpose.

All employees of the Vale of Glamorgan Council will be supported through a range of HR policies and procedures which are recommended to schools. In addition, wellbeing support is available through a number of services, including our Occupational Health team and our Care First facility and Education Support. Our employees will also be able to access the Council's GLAM network which provides a safe and supportive environment for colleagues to raise awareness of LGBT+ in the workplace and a dedicated avenue for influencing and supporting developments of policy or practice.

Guidance for inclusive workplaces can be found on the Stonewall website: Best practice, toolkits and resources | Stonewall.

8 Additional support

Families First Advice Line

- The Families First Advice Line provides advice and support to families that will enable them to resolve their concerns independently or will assist in identifying appropriate services to be referred onto.

Families First Advice Line will aim to:

- Listen and provide advice on meeting the needs of families
- Help identify and access services for families in the Vale of Glamorgan
- Provide emotional support and practical guidance to help resolve family's concerns, worries and issues faced by families

The Families First Advice is the single point of access for:

*Team Around the Family

*Vale Parenting Service

*Youth Wellbeing Service

*Flying Start Outreach

*Young Carers

*Parent and Young Careers assessments

*Barnardo's Cygnet Programme

Available for families in the Vale of Glamorgan with children aged 0 -18 years old.

The Advice Line is also available to professionals to discuss services for families they are supporting.

Contact methods

- 0800 0327 322

- familiesfirstadviceline@valeofglamorgan.gov.uk

Social media

- Facebook

- X

Opening times

Monday, Tuesday, Wednesday, Thursday and Friday - 9:00am - 4:30pm

Childline Cymru

Childline is 24-7 helpline for young people to be to contact either online or over the phone

www.childline.org.uk

telephone 08001111

Samaritans

Samaritans is a helpline service 24 hours a day, 7 days a week. It aims to work with people to create a safe space where they can talk about what is happening and how they feel.

www.samaritans.org.uk

telephone 116123

Learning & Skills Directorate Safeguarding Team

Vale of Glamorgan Council Learning & Skills Directorate Safeguarding Team can provide advice to schools in addressing bullying or prejudice and case work to help professionals better support families and children experiencing bullying or prejudice. Phone: 01446 700111 or e-mail:

safeguardingeducation@valeofglamorgan.gov.uk

Appendix 1 Context Statement

Vale of Glamorgan Council commitment to equality and inclusion

The Vale of Glamorgan Council is committed to promoting equality and inclusion. The Council's vision is Strong Communities with a Bright Future.

In order to deliver the vision, the Corporate Plan identifies four key outcomes that we want to achieve in order to achieve this vision, one of these is:

- An inclusive and safe Vale

As an organisation, we work under the Equality Act 2010 and the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 to uphold the dignity and respect of all residents in the County, children and young people in our schools, and our staff. The Equality Act and the Wales Regulations also apply to schools.

We understand that social and political contexts and landscapes change over time. We recognise that identities evolve and are relative to different contexts. Therefore, we remain open to learning from schools, different communities, new research, new case law, and best practice and use this to continually review our practice and ensure it remains relevant and up to date.

The Vale of Glamorgan Council is committed to promoting equality and inclusion. The Council's vision is Strong Communities with a Bright Future. To deliver this vision, the Corporate Plan identifies four corporate well-being objectives that it aims to achieve.

We have linked our equality objectives with these corporate well-being objectives. This aligns the Council's work in these areas and mainstreams our work on tackling areas where there is most pressing disadvantage.

Our first Corporate Well-being Objective is **to work with and for our communities**.
Our Strategic Equality Plan links with this by identifying the communities who are most disadvantaged as identified in 'Is Wales Fairer 2018' and through local engagement.

Our second Corporate Well-being Objective is **to support learning, employment and sustainable economic growth**.

Our Strategic Equality Plan aims to support learning and employment for protected groups, focusing on those who are most disadvantaged.

Our third Corporate Well-being Objective is **to support people at home and in their community**.

The Strategic Equality Plan supports the safety and well-being of people at home and in their community, with particular regard to protected groups identified as disadvantaged in 'Is Wales Fairer 2018' and our own local information and data.

Our fourth Corporate Well-being Objective is **to respect, enhance and enjoy our environment**.

The Strategic Equality Plan seeks to ensure our local environment can be enjoyed by a diverse range of people, including disabled people.

These equality objectives support our work to achieve the five ways of working and contribute to our well-being objectives as required by the Well-being of Future Generations Act. The Strategic Equality Plan was developed in accordance with the five ways of working and they are also reflected in the content of the Plan. There is strong emphasis on collaboration as the Council recognises the need to work with partners to deliver services and improve local well-being. The plan reflects the importance of prevention, and this has been a strong theme in much of the engagement to date. This is a four-year plan, but we recognise that many of the issues are even longer term.

We have developed a model Strategic Equality Plan that schools can adapt to reflect their local circumstances. The model plan focuses on two key areas of the corporate Strategic Equality Plan that relate to schools:

- Improve how we involve, engage, and communicate with protected groups about our work and decisions.
- Develop and implement plans throughout the life of this plan to address attainment gaps for children and young people and provide support to overcome barriers to them reaching their full potential.

There are associated actions and expected outcomes with each of the equality objectives. This toolkit aligns with these.

Vale of Glamorgan Council has a long history of working with community and voluntary sector partners to support schools to provide safe learning environments for all pupils and students.

The Transgender Inclusion Toolkit and Guidance Document for Schools and other settings was first adopted by the Vale of Glamorgan Council in 2018. The background to the introduction of that document followed a number of requests, dating from 2016, from Vale of Glamorgan schools asking for additional advice and guidance. The document was developed in response on behalf of the five Central South Consortium Local Authorities. Welsh Government were keen for Local Authorities in Wales to adopt the Toolkit which was also adopted by other Local Authorities in Wales, and in some cases subsequently withdrawn, by other councils in Wales.

In recognising social and political contexts and landscapes change over time, more recently the Council has been progressing its review of the toolkit having liaised with colleagues in Welsh Government and other Local Authorities in England and elsewhere in Wales. The Coronavirus (Covid-19) pandemic delayed progress of this work, but as we emerge from the pandemic, this work has been progressing at pace. It is more important than ever to ensure that appropriate advice is given to schools to ensure that the duties owed by the Local Authority are met in respect of all people with a protected characteristic, and to take account of the developments in case law and reviews undertaken.

The Council also recognises that identities evolve and are relative to different contexts. Therefore, in consulting widely on the Council's policy document, we remain open to learning from schools, different communities, new research, new case law, and best practice and use this to continually review our practice to ensure it remains relevant and up to date.

Research base

The formation of the Vale of Glamorgan toolkit has relied heavily on the Brighton & Hove Trans-inclusion Guidance which demonstrated the detailed research and consultation carried out by Brighton & Hove City Council. In summary this was carried out over a number of years, beginning in 2013. The Brighton & Hove Trans Equality Scrutiny Panel set out to ask: *what needs to be done to make things fairer for trans people to live, work and socialise in the city?* Panel members listened to trans people's stories of discrimination, disadvantage, transphobia and invisibility. Their final report made several

recommendations, one of which was to conduct a full needs assessment to understand the extent of the issues. Extensive qualitative and quantitative research took place led by NHS and Brighton & Hove City Council in partnership with University of Brighton and Community and Voluntary Sector organisations in the city. The Trans Needs assessment report was published in 2015.

The Trans Needs Assessment highlighted the level of discrimination and prejudice that was ongoing for trans people in Brighton & Hove. It also noted the strengths of the local trans community and provided practical recommendations on how inequality could be tackled and local and how national services could be improved.

The Toolkit will be subject to continual review and change in consultation with partners and schools and in response to legal changes.

Appendix 2 National data

The Government Equalities Office estimates that less than one per cent of the population is trans. Not all children who explore their gender identity will grow up to identify as trans or non-binary. In recent years, there has been a significant increase in the number of young people seeking specialist support from NHS Gender Identity Development Services[41]; although in terms of overall numbers, the proportion of young people accessing these services is still far less than one per cent of the youth population.

In the Metro Youth Chances Report, 2016 over half of trans respondents (58%) knew they were trans by the age of 13.

Various research studies have shown that mental ill health, suicidal ideation, attempted suicide and completed suicide are of higher prevalence for trans people than cisgender people. Some studies have found trans young people to be at an increased risk of self-harm including the Stonewall School Report, 2017.

The Stonewall School Report, 2017 also found:

- Nearly half of lesbian, gay, bi and trans pupils (45%) – including 64 per cent of trans pupils – reported being bullied for being LGBT at school.
- Almost half of LGBT pupils (45%) who were bullied for being LGBT never told anyone about the bullying.
- Seven in ten LGBT pupils (68%) reported that teachers or school staff only 'sometimes' or 'never' challenged homophobic, biphobic and transphobic language when they heard it.
- Seven in ten LGBT pupils (68%) reported that their schools said that homophobic and biphobic bullying was wrong, but just four in ten (41%) reported that their schools said that transphobic bullying is wrong.
- Three in four LGBT pupils (77%) had never learnt about gender identity and what 'trans' means at school.
- More than two in five trans pupils (44%) said that staff at their school were not familiar with the term 'trans' and what it means.

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[41] Gender Identity Service https://gids.nhs.uk/number-referrals

Caution must be exercised when sharing any data on mental health, self-harm and suicide with children and young people. Guidance on developing suicide aware schools can be found at:

www.samaritans.org/how-we-can-help/schools/ and www.papyrus-uk.org/

Appendix 3 Further information on the legal framework

The Equality Act 2010 prohibits direct and indirect discrimination, harassment and victimisation related to the following protected characteristics:

- age (for staff only)
- disability
- gender reassignment
- marriage and civil partnership (for staff only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation.

The Equality Act provides that:

> A person has the protected characteristic of gender reassignment if the person is proposing to undergo, is undergoing or has undergone a process (or part of a process) for the purpose of reassigning the person's sex by changing physiological or other attributes of sex.[42]

Not everyone who identifies as "trans" will have the protected characteristic of gender reassignment though many will. The latest relevant case suggests that the term is wide enough to cover:

(1) those whose transition is not medical but involves 'changing non-physiological aspects of sex, such as one's name and/or how one dresses, or wears one's hair, or speaks, or acts';

(2) those who are 'proposing to undergo', as well as those who are undergoing or have undergone, all or part of a process of 'reassigning … sex', as long as they have made 'a conscious decision, which can properly be described as settled, to adopt some

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[42] Section 7 of the Equality Act https://www.legislation.gov.uk/ukpga/2010/15/section/7 (Retrieved 19.5.20)

aspect of the identity of a gender different from that assigned at birth. A passing whim will not do, but nor is an intention required that the change should be permanent'.[43]

The Equality Act does not require that pupils with the protected characteristic of gender reassignment are treated as if they are of a sex other than that registered at birth. Nor does it require that such pupils are permitted to transition socially at school. It does require that they are not discriminated against because of their protected characteristic.

Direct discrimination occurs when a person is treated less favourably because of a protected characteristic. This might happen where (for example) a boy is refused access to a girls' soccer team. The same is true where a trans girl is refused access to a girls' soccer team because she is not recognised as a girl. The Equality Act permits some sex discrimination, including in relation to competitive sports. Whether or not such discrimination is lawful will depend on the needs and interests of the girls in the soccer team as well as those of the boy or trans girl who wishes to access it, and failure to take their interests into account may result in sex discrimination against those girls.

Indirect discrimination occurs where the same rule is applied to all but has a disparate impact on people in some groups defined by reference to protected characteristics, unless the rule is proportionate to a legitimate aim. Refusing boys and trans girls access to a girls only soccer team will have a disparate impact on trans girls (who are more likely to want to play in the team). Whether or not it will amount to unlawful indirect discrimination will depend on the needs and interests of the girls in the soccer team as well as those of the boy or trans girl who wishes to access it, and failure to take their interests into account may result in sex discrimination against those girls.

The Equality Act 2010 also protects against harassment related to protected characteristics (though not, in the case of pupils, harassment related to religion, belief or sexual harassment). Harassment occurs where a person is subjected to unwanted conduct whose purpose or effect is to violate their dignity or to create an intimidating, hostile, degrading, humiliating or offensive environment for them.

It should be noted that the Equality Act 2010 lists "belief" as a protected characteristic. This has implications for the extent to which pupils, in particular, may be required or expected to "affirm" trans pupils' gender identity. In addition, the Human Rights Act 1998 gives effect in the UK to the European Convention on Human Rights, Article 9 of which protects freedom of religion and belief and Article 10 of which protects freedom of expression. Schools are

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[43] *R (AA & Ors) v National Health Service Commissioning Board)* [2023] EWHC 43 (Admin), §§130-132.

public authorities for the purposes of the 1998 Act and must act consistently with the Convention provisions. These matters are further discussed below.

Finally, the Equality Act 2010 imposes a duty on public authorities including schools to pay "due regard" to the need to (a) eliminate discrimination and harassment; (b) advance equality of opportunity; and (c) foster good relations between those who do and do not share protected characteristics.[44] Compliance with this duty (referred to as the "Public Sector Equality Duty" or "PSED") requires that decision makers consider the potential equality implications of policies and significant decisions when developing policy and taking decisions, not as an afterthought. Education settings should keep a record of their decision making, including their consideration of equality implications, and should keep the implications of policies and significant decisions under review.

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[44] Section 149 of the Equality Act https://www.legislation.gov.uk/ukpga/2010/15/section/149 (Retrieved 13.10.22)

Appendix 4 Definitions - bullying and prejudice

Shared understanding of bullying and prejudice-based incidents is important to prevent and respond effectively. The Vale of Glamorgan Model Anti-Bullying Policy (..\Learning & Skills Model Anti-Bullying policy January 2021 (English).docx ..\Polisi Gwrth-fwlio Model Dysgu a Sgiliau Ionawr 2021 (Cymraeg).docx recommends that all bullying and prejudice is recorded by type. In this way behaviours can be monitored and used to inform practice and to measure the impact of activities.

Bullying

"Bullying is behaviour by an individual or group, repeated over time, that intentionally hurts another individual or group either physically or emotionally. Bullying can take many forms (for instance, cyber-bullying via text messages, social media or gaming, which can include the use of images and video) and is often motivated by prejudice against particular groups, for example on grounds of race, religion, gender, sexual orientation, special educational needs or disabilities, or because a child is adopted, in care or has caring responsibilities. It might be motivated by actual differences between children, or perceived differences."[45]

Transphobic Bullying

Transphobic bullying is when someone is bullied because they are trans, or perceived to be trans.

Where children and young people are perceived not to be conforming to the dominant gender roles that may be widely expected of them, schools should be alert for signs of bullying. Transphobic bullying is commonly underpinned by sexist attitudes and can affect any child or young person. An individual may also experience transphobic bullying as a result of perceptions that a parent, relative or other significant figure does not conform to stereotypes about gender expression or is trans.

Prejudice-based incidents

This is a one-off incident which is perceived by the victim or any other person, to be motivated by hostility, prejudice or ignorance, based on a person's perceived or actual ethnicity, sex, disability, religion, beliefs, sexual orientation or gender identity or their

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[45] Preventing and Tackling Bullying, DfE 2013
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/623895/Preventing_and_tackling_bullying_advice.pdf (Retrieved 26.5.20)

association with someone from one of these groups. These can also include indirect prejudice-driven behaviour that is not targeted at one individual. The impact of this expression of prejudice against an equality group, whether intentional or not, can be damaging and such incidents must therefore be responded to as prejudice-based incidents.

'Hate Incidents' is the term widely used by the police and other sectors to describe prejudice-based incidents. Schools should be aware that, at their most serious, both bullying and prejudice-based incidents should be reported to the police.

Transphobic Incident

"Any incident which is perceived, by the victim or any other person, to be motivated by a hostility or prejudice against a person who is transgender or perceived to be transgender"[46].

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[46] Crown Prosecution Service https://www.cps.gov.uk/legal-guidance/homophobic-biphobic-and-transphobic-hate-crime-prosecution-guidance

Appendix 5 A Guide to Trans Inclusive policies

Policy	Example of trans inclusive approach (read relevant sections of this toolkit to further inform writing of relevant policy section)
Equality Policy	This should be in line with the Equality Act 2010 and reference gender reassignment as a protected characteristic. All policies should include the protected characteristic of sex as well as gender reassignment. This policy could reference this *Trans Inclusion Schools Toolkit* by saying for example that the setting works within the guidance provided by Vale of Glamorgan Council.
Anti-Bullying Policy	Include reference to sexist, homophobic, biphobic and transphobic bullying (alongside bullying associated with any other protected characteristic) and explain how both bullying and prejudice-based incidents are recorded by type, analysed and monitored.
PE and Physical Activity Policy	Include detail on what is in place to ensure all those using changing rooms are kept safe. Include how trans pupils and students will be supported to participate in PE and physical activity (including swimming) and enabled to access appropriate changing facilities. Include how changing facilities will be managed for away fixtures.
School visits, trips and residential policies	Include how pupils and students will be supported to participate in residential trips. Include how discussions will be had with trans children and young people and their families to support this.
RSE Education policies	Include how the RSE curriculum (including statutory relationships, sex and health education) will support understanding of trans identities and be inclusive of trans children and young people.
Uniform Policy	Uniform items are listed, rather than listed by gender. A statement is included to cover approved changes to swimming costumes for trans pupils and students and others for whom adjustments are needed such as those from faith backgrounds.
Safeguarding, Confidentiality, Data Protection	As appropriate these explain how changes are made to personal information and make clear that: Being trans is not a safeguarding issue Trans members of the community will not be 'outed' without their permission unless there are safeguarding reasons for doing so
Special educational needs / ALN and disabilities policies	Include the statement that a pupil or student who has SEN / ALN and/or is disabled is just as likely to be trans or gender exploring as any other person and signpost to support their needs.
Teaching and learning / behaviour/ relationship policies	These policies will encourage approaches which are inclusive, representative of the community and prevent and challenge sexism, homophobia, biphobia and transphobia.

Appendix 6 Template for school level statement on good practice in working with trans children and young people in our school

Education settings should include reference to the inclusion of trans children and young people across the policy framework as described in Appendix 8. However, some settings may want to provide key messages for all staff outlining how trans children and young people will be supported. This statement can therefore be adapted to reflect school-based practice and shared with staff following training and as one aspect of the setting's practice to improve equality and inclusion. It is recommended that there is a named member of staff with training and expertise in supporting trans children and young people.

Disclosures of trans identity will be shared with [named member of staff] to ensure appropriate decisions are made to support the child or young person
We will take our lead from children and young people and involve them in making decisions that will affect them
We will provide access to a range of appropriate toilets and changing facilities, ensuring all those using changing rooms and toilets are kept safe (appendix 8)
We will update our records. [Named member of staff] will be responsible for this and communicating changes made)
We will support all pupils / students to wear uniform and PE kit in line with their gender identity
We will take confidentiality seriously and not 'out' a trans child or young person without their permission unless there is a safeguarding reason to do this
We will use the curriculum and other opportunities to challenge gender stereotyping, sexism, homophobia, biphobia and transphobia and will represent diversity as part of our wider equality work
We will identify, record and challenge all incidents involving prejudice or bullying, including those which are sexist, homophobic, biphobic and transphobic

Appendix 7 A whole setting approach to trans inclusion – audit and action planning tool

Area of focus	Suggested activities (these could be RAG rated)	Next steps / Actions identified	In place√
Trans issues and transphobia are acknowledged across the policy framework.	Reference provision that is being made or will be made for trans pupils and students in the Equality Policy. Include an equality objective (Public Sector Duty of the Equality Act 2010) which supports the needs of trans children and young people. Reference transphobia when talking about prejudiced forms of bullying in the anti-bullying policy. In the uniform policy, list uniform items which are acceptable in school, but do not list by gender. When groups of pupils or students are referenced or discussed ensure this includes trans pupils where appropriate.		
Acknowledge there could be trans people within the educational setting such as family members, staff, governors and pupils	Ensure that there is a statement in the Equality Information for the school (required under the Public Sector Duty) which states that there may be trans members of the community. Use assemblies to celebrate a diversity of trans people and ensure pupils and students understand that transphobia is unacceptable in the school community.		

	Use inclusive language such as 'all genders' / 'everyone', where appropriate, to avoid making assumptions about an individual's gender identity.		
Area of focus	**Suggested activities (these could be RAG rated)**	**Next steps / Actions identified**	**In place√**
Closely monitor all areas of the curriculum, resources and teaching and learning approaches to ensure that where possible: trans people are visible gender stereotypes or transphobic material is avoided and trans pupils and students feel included in the classroom	Ensure the library stocks age-appropriate books which explore diversity. Discuss and challenge sexism, gender stereotyping and transphobia when it arises and as part of planned opportunities in RSE education.		

Ensure that the curriculum and RSE education and work related to spiritual, moral, social, and cultural development is used to challenge gender stereotypes, support the development of a positive understanding of gender identity and prevent transphobia.	Books can be used in English or literacy to discuss trans identities, gender stereotyping and sexism. All subjects can provide role models which challenge gender and other stereotypes and raise aspirations for all groups. Relationships and Sex Education (RSE) should be used to develop understanding of trans, gender stereotyping and sexism and to		

	explain that gender identity is a spectrum in an age appropriate manner.		
Effectively challenge, record and deal with transphobic abuse, harassment and bullying (such as name-calling, derogatory jokes, graffiti, unacceptable or unwanted behaviour, intrusive questions) and then monitor incidence of transphobic abuse, harassment and bullying, and use this information to inform whole school developments.	Bullying and prejudice-based incidents are recorded by type. Guidance or scripts on how to effectively challenge transphobic language and attitudes are provided to staff. Staff, pupils and students are provided with training and educational opportunities to develop skills in challenging all prejudiced language and behaviour including that which is sexist, homophobic, biphobic and/or transphobic.		
Area of focus	**Suggested activities (these could be RAG rated)**	**Next steps / Actions identified**	**In place√**
Include trans issues in equality training for staff and governors and support wider community understanding of trans.	Trans awareness training, support or information is provided to the whole school community (including parents and carers).		
Participate in events such as LGBT History Month and ensure visibility of trans people and their achievements.	Mark LGBT History Month, Transgender Day of Visibility and/or International Day against Homophobia and Biphobia Use displays to celebrate achievements of a diversity of trans people.		

Area of focus	Suggested activities (these could be RAG rated)	Next steps / Actions identified	In place√
	Ensure the library stocks age-appropriate books about trans children, young people and adults.		
Communication to all parents and carers that includes reference to the work that is going on to make the educational setting trans inclusive and if appropriate signpost to opportunities for them to develop their understanding of trans	Promote on newsletters and the website work going on in school related to gender equality, trans inclusion and work to prevent homophobia, biphobia and transphobia.		
Area of focus	**Suggested activities (these could be RAG rated)**	**Next steps / Actions identified**	**In place√**
Provide appropriate support to pupils and students who identify as trans and refer them and their families when needed to national or local services	Allies or trusted adults for LGBT pupils and students are identified to talk with or go to with any issues arising in a school day. There are a range of toilets available for everyone. Name and gender changes are made on systems. Residential trips are accessible to all pupils and students and reasonable adjustments are made when necessary.		

Appendix 8 – Equality Impact Assessment

1. What are you assessing?

2. Who is responsible?

Name		Job Title	
Team		Directorate	

3. When is the assessment being carried out?

Date of start of assessment	

4. Describe the proposal?

What is the purpose of the proposal?
Why do you need to put it in place?

Do we need to commit significant resources to it (such as money or staff time)?
What are the intended outcomes of the proposal?
Who does the proposal affect? **Note: If the proposal affects lesbian, gay, homosexual, or transgender people, ensure you explicitly include same-sex couples and use gender neutral language.**
Will the proposal affect how other organisations work?
Will the proposal affect how you deliver services?
Will the proposal impact on other policies or practices?
Can you change the proposal so that it further promotes equality of opportunity and fosters good relations?
How will you achieve the proposed changes?
Who will deliver the proposal?
How will you know whether you have achieved the proposal's purpose?

5. What evidence are you using?

The Gunning Principles, established from past court cases, can be helpful in ensuring we apply fairness in engagement and consultation:

Principle 1: Consultation must take place when the proposals are still at a formative stage. You must not have already made up your mind.

Principle 2: Sufficient reasons must be put forward to allow for intelligent consideration and response. Have people been given the information and opportunity to influence?

Principle 3: Adequate time must be given for consideration and response. Is the consultation long enough bearing in mind the circumstances?

Principle 4: The product of consultation must be conscientiously taken into account when finalising the decision.

Have you complied with the duty to engage as described above and are you sufficiently informed to proceed?

Yes		**No**	

Engagement (with internal and external stakeholders)   **Consider communities of interest or place (where people are grouped together because of specific characteristics or where they live).**

Please include engagement with internal networks where appropriate – GLAM and Ethnic Minority Network.

Consultation (with internal and external stakeholders)

Consider communities of interest or place (where people are grouped together because of specific characteristics or where they live).

Please include consultation with internal networks where appropriate – GLAM and Ethnic Minority Network.

National data and research

Including Equality and Human Rights Commission's 'Is Wales Fairer 2018' Report, its Measurement Framework, the Future Generations Report 2020, Welsh Index of Multiple Deprivation, Census.

Local data and research **Including Vale of Glamorgan Council's Community Impact Assessment.**

6. How robust is the evidence?

Does it show what the impact will be (positive and negative)?
What are the gaps?
What will you do about this?
What monitoring data will you collect?
How often will you analyse and report on this?
Where will you publish monitoring data and reports?

7. Impact

Is there an impact?

If there is no impact, what is the justification for thinking this? Provide evidence.

If there is likely to be an impact, what is it?

Age

Disability

Gender reassignment, including gender identity
Ensure policies explicitly include same-sex couples and use gender neutral language.

Marriage and civil partnership (discrimination only)

Pregnancy and Maternity

Race

Religion and belief

Sex

Sexual orientation

Ensure policies explicitly include same-sex couples and use gender neutral language.

Socio-economic considerations

Socio-economic disadvantage can be disproportionate in both communities of interest and communities of place – think about how this leads to further inequality of outcome and how intersectionality can exasperate this.

Welsh language

How does your proposal ensure that you are working in line with the requirements of the Welsh Language Standards (Welsh Language Measure (Wales) 2011), to ensure the Welsh language is not treated less favourably than the English language, and that every opportunity is taken to promote the Welsh language (beyond providing services bilingually) and increase opportunities to use and learn the language in the community?

Human rights

How do you know?

Explain this for each of the relevant protected characteristics as identified above.

What can be done to promote a positive impact?

Explain this for each of the relevant protected characteristics as identified above.

What can be done to lessen the risk of a negative impact?

Explain this for each of the relevant protected characteristics as identified above.

Is there a need for more favourable treatment to achieve equal outcomes? (Disability only)

Will the impact be positive, negative or neutral?

Explain this for each of the relevant protected characteristics as identified above.

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8. Monitoring ongoing impact

Date you will monitor progress and outcomes	
Measures and outcomes that you will monitor	
Date you will review implemented proposal and its impact	

9. Further action as a result of this equality impact assessment

Possible Outcomes	Say which applies
No major change	
Adjust the policy	
Continue the policy	
Stop and remove the policy	

10. Outcomes and Actions

Recommend actions to senior management team
Outcome following formal consideration of proposal by senior management team

11.   Important Note

Where you have identified impacts, you must detail this in your Cabinet report seeking approval for your proposal.

12. Publication

Where will you publish your approved proposal and equality impact assessment?   **In addition to anywhere you intend to publish your approved proposal and equality impact assessment, you must send a copy to Tim Greaves, Equality Co-ordinator, to publish on the equality pages of the Vale of Glamorgan website.**

13. Authorisation

Approved by (name)	
Job Title (senior manager)	
Date of approval	
Date of review	

Appendix 9 – Risk Assessment

Location/Premises/School:		Date:	
Completed by:		Review date:	
Activity / Area / Description:			

What are the hazards?	Who might be harmed and how?	What are you already doing?	What further action is necessary?	Action by whom	Action by when	Date action completed

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Please click on headings to find general guidance or section guidance with an example. You will find supporting information in appendices at the end of the guidance.

When you start to assess your proposal, arrange to meet Tim Greaves, Equality Co-ordinator, for specific guidance. Send the completed form to him for a final check and so that he can publish it on our Vale of Glamorgan equality web pages.

Please also contact Tim Greaves if you need this equality impact assessment form in a different format.

1. What are you assessing?

Vale of Glamorgan Council's **Trans Inclusion Toolkit for Schools**

2. Who is responsible?

Name	Elizabeth Jones	**Job Title**	Head of ALN & Wellbeing
Team	Additional Learning Needs and Wellbeing	**Directorate**	Learning and Skills

3. When is the assessment being carried out?

Date of start of assessment	1 September 2022
	30th October 2023 – updated following public consultation period

4. Describe the proposal?

What is the purpose of the proposal?

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To review and update our current toolkit taking into account current guidance, good practice and relevant legislation. To have in place guidance for schools that will help them support children and young people who are exploring their gender identity.

In this document, the phrase 'trans and gender variant' is used as an umbrella term to ensure consistent terminology throughout. We considered use of the term 'trans' or 'gender variant' or 'trans and non-binary' but this suggests that 'trans' is being used other than as an umbrella term and that only 'non-binary' is also being referred to. Specific reference is, however, made to non-binary pupils where this is the only category being discussed.

Why do you need to put it in place?

Education settings are diverse communities that reflect wider society and are places where children and young people learn about valuing and respecting themselves and others. Children and young people spend a great deal of time in these settings and should feel able to be themselves in them.

Schools and education settings have a responsibility to ensure that all children and young people in their care feel safe and supported to reach their potential and be the best version of themselves. Trans children and young people will generally be a small group within a school community, but a potentially vulnerable one.

We see the Toolkit as an important addition to the range of inclusion, equality and anti-bullying resources and guidance we provide to education settings in the Vale of Glamorgan that support students, taking in to account their protected characteristics and wide-ranging needs.

This toolkit, in conjunction with other guidance documents, provides ideas for policy and practice that will keep all children and young people safe. It will help to create environments which help prevent gender stereotyping and pro-actively respond to the need of those who may be suffering bullying or prejudice.

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The previous guidance was in place for five years and was subject to challenge. We are taking this opportunity to review the guidance and produce this new toolkit to ensure that it meets with current relevant legislation, guidance and good practice.

Do we need to commit significant resources to it (such as money or staff time)?

Staff from a range of internal and external services are involved in the review, each considering the draft guidance from the perspective of their particular area of expertise. This includes staff from Learning and Skills, Legal Services, the Equalities Unit, and Consortium Central South.

We approached Brighton & Hove City Council and asked permission to review and take best practice and ideas from their published Transgender toolkit guidance. Brighton & Hove City Council gave us permission to do this and suggested that a donation to the charity 'Allsorts' would be a kind gesture for all of the help and support they provided Brighton & Hove in the completion of their toolkit. The Vale of Glamorgan Council donated £250 to Allsorts as a kind gesture of good will.

To ensure that the revised toolkit is built on strong legal foundations legal advice has been sought as part of the review of the Vale of Glamorgan's Toolkit.   It is clear as evidenced during the process that there will be a definite need for additional training to be provided alongside the toolkit to increase the knowledge and confidence of staff to help better support all learners. Enquiries are being carried out to identify appropriate providers to deliver this training.

What are the intended outcomes of the proposal?

This toolkit provides ideas for policy and practice that will keep all children and young people safe and to create environments which help prevent and pro-actively respond to gender stereotypes. As well as supporting trans pupils and taking into account their needs, it also takes into account the needs of their fellow pupils.

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Primarily, this toolkit is a resource for teachers and professionals working in schools. However, it will be accessible to pupils, parents, carers and the public via schools and the Council's website.

Who does the proposal affect?

Note: If the proposal affects lesbian, gay, homosexual, or transgender people, ensure you explicitly include same-sex couples and use gender neutral language.

The toolkit is intended to support transgender pupils in school settings and their families, whilst also recognising the needs of all pupils and their own protected characteristics.

It is intended to help teachers and support staff to specifically support trans children whilst balancing the needs of all children within primary and secondary education settings provided by the Vale of Glamorgan

Will the proposal affect how other organisations work? No

Will the proposal affect how you deliver services?

Yes. It will affect the way in which schools deliver services to their pupils as they will need to be more mindful of keeping with the ethos of the toolkit.

Will the proposal impact on other policies or practices?

This toolkit will complement and further support other schools' policies including:

- Individual schools' strategic equality plans
- Individual schools' accessibility plans
- Learning and Skills Directorate Model Safeguarding Policy September 2022
- Learning & Skills Model Directorate Model Anti-Bullying policy January 2021

We understand that social and political contexts and landscapes change over time. We also recognise that identities evolve and are relative to different contexts. Therefore, we remain open to learning from schools, different communities, new research, new case

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law, and best practice.   We will use this continually to review our practice to ensure it remains relevant and up to date.

Can you change the proposal so that it further promotes equality of opportunity and fosters good relations?

The public consultation and the stakeholder engagement and feedback revealed that some groups had a number of fears and concerns over the advice given within the toolkit about the following topics. As a result the toolkit content was amended to reflect these points to ensure that we continued to promote equality of opportunity and foster good relations:

- Questions were raised as to whether the guidance within the toolkit was aimed at supporting children and young people through either social or medical transition. Regarding medical transition, it is recognised that the Welsh Gender Service does not provide care or advice to anyone under the age of 18 years, though they may be referred from the age of 17.5 years and medical support, such as puberty blockers, can be prescribed to adolescent children at younger ages.

- A small number of respondents were concerned that there was insufficient guidance in the toolkit about medical matters relating to gender transitioning. Other respondents, mainly those involved in education, expressed concerns that they were being expected to provide medical advice and felt ill-equipped to provide this.

- These differing views were considered. Having taken advice from health safeguarding colleagues, the toolkit has been amended to advise that decisions and guidance about medical matters are made outside of education settings by colleagues working within the NHS. The recognised universal gateway into NHS services is via the GP service and any young person or parents seeking medical advice relating to gender transition should use this pathway.

- This Trans Inclusion toolkit is aimed at supporting children and young people who may wish to socially transition at school and their families. The toolkit also acknowledges

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

the protection under the Equalities Act 2010 afforded to children and young persons who make the decision to socially transition.

- In addition, a number of comments felt that the toolkit was advocating that schools should automatically facilitate "transition" if this was the wish of the child or young person. This was not the intention of the toolkit which has now been amended accordingly.

- The toolkit now clearly points to the Cass Review's conclusions that 'Social Transition' is not a neutral act and "may have significant effects on the child or young person in terms of their psychological functioning and that a "watch and wait" approach is advocated in the school setting.

- There are different views on the benefits versus the harms of early social transition. Whatever position is taken, it is important to acknowledge that social transition is not a neutral act and care needs to be taken to ensure that no young person rushes into the process without a thorough understanding of its implications.

- The Royal College of Psychiatrists advocate a "watch and wait policy, which does not place any pressure on children to live or behave in accordance with their [sex registered at birth] or to move rapidly to gender transition".

- The guidance now reflects this position and indicates that schools should adopt a supportive, flexible and responsive attitude to affirm a child's expressed gender, whilst being sensitive to change over time. This will involve making appropriate adjustments and ensuring that the child does not face discrimination or bullying.

- The perceived lack of safety of girls and the need to balance the rights of trans children and the rights of children with other protected characteristics. A specific example which caused concern was allowing trans girls to use girls' toilets, girls' changing rooms and girls' dormitories on residential trips. Concerns were raised about safety, the need for privacy, the potential for embarrassment and the right to dignity. The feedback included comments that clear and definitive guidance should be given in all of these circumstances for clarity of approach.

- The authors of the toolkit recognised these concerns and amended the toolkit to further clarify that each scenario facing a school setting would have to be considered having due regard to all of the surrounding circumstances. As such, it would always be necessary to balance the needs of all children and young people involved and/or to carry out a risk assessment based on the circumstances and information known at the time. It was also clearly acknowledged that every set of circumstances would be different.

- A recurring comment made by young people who responded to the consultation was that they felt the toolkit should be accompanied with an easy-to-understand document or a young person infographic. This has been considered by the authors and further work will be undertaken to compile this when the final version of the toolkit is agreed and published.

- Concern was raised over the lack of definitive guidance given in the toolkit over making medical decisions about such topics as medical transition and breast binding. The authors recognised this but considered that it was not appropriate for education professionals to give medical and health guidance. They consulted with health safeguarding colleagues who advised that a person's GP is the gateway into NHS services and advice. This has been reflected in the toolkit.

- The topic of 'Gillick competency' (see definition below) was raised in that it was felt that some children and young people were too young / too immature to make life changing decisions over social transitioning to a different gender and not having the ability to understand the impact and consequences of their decision making.

Gillick competence

This is a term used to indicate a child's competence to make decisions for themselves. For most practical purposes, parents are trusted to make important decisions in the best interests of their children. Where the views of parents and children differ, or where children do not want their parents to be involved, it will be necessary to determine whether the child is competent to make the decision themselves (this is referred to as *Gillick* competence).

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Gillick competence is judged in relation to the particular decision in issue and not in the round. There is no definitive set of questions which need to be asked but appropriate professionals will need to consider the child's:

- age, maturity and mental capacity;

- understanding of the issue and of the advantages, disadvantages and potential long-term implications of the decision;

- understanding of the potential risks;

- ability to understand any advice or information they have been given;

- understanding of any alternative options, if available;

- ability to provide a rationale for their decision.

When determining *Gillick* competence in the context of social transitioning it will be necessary to consider whether the child is sufficiently mature to make the relevant decision(s) without the support of their parent(s).

- When children are not *Gillick* competent, decisions may be made in their best interests by parents or appropriate professionals.

This particular topic was considered at length in consultation with legal counsel and the overarching advice given to professionals in the toolkit was that, if a child is not Gillick competent, parental consent would generally be required for a child's social transition. In addition, if a child is Gillick competent but the parents did not consent or were not involved, schools are advised to consult with the Learning & Skills Safeguarding Officer who will advise on how to proceed, or to seek further advice from the Local Authority Designated Officer (LADO).

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Concerns were raised that the guidance focussed on championing the rights of trans and gender variant learners to the detriment of others (who also have protected characteristics).

As a consequence of the consultation process, the guidance has been amended to emphasise that, while it is extremely important to recognise that the Equality Act 2010 provides protection from direct and indirect discrimination in respect of the protected characteristic of 'gender reassignment', it is of equal importance to recognise that similar protection is provided in respect of other protected characteristics:

- age (for staff only)
- disability
- marriage and civil partnership (for staff only)
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation[1]

The point was made in the consultation process that affirmation of chosen gender is not a neutral act and some raised the need for clarification over a teacher's role in affirmation, with school leaders questioning and expressing concerns, given the potential lifelong consequences of transitioning, about supporting a pupil in this regard without the involvement of parents.

In light of these concerns, the toolkit was amended and now states clearly that schools should not support a learner to socially transition without involving the learner's parents in the process.

If the pupil is not happy to involve parents, then schools should not support the process. In exceptional circumstances, where it is felt that there are strong reasons to be concerned about the implications of involving parents, schools must consult with the Learning & Skills Safeguarding Officer who will advise on how to proceed, or seek further advice from the Local Authority Designated Officer (LADO).

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

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How will you achieve the proposed changes?

We have used the information gathered throughout the engagement and consultation period to inform a final version of the toolkit. We will seek approval of the toolkit and then circulate it to schools for their reference.

Who will deliver the proposal?

Learning and Skills will circulate the toolkit to schools for them to refer to.

How will you know whether you have achieved the proposal's purpose?

Information provided to us during consultation has informed the final version of the toolkit. We aim to provide schools with a toolkit that helps them to support all of their pupils. We will ask schools to give us feedback on their experience of using the toolkit to ensure that it is continues to be fit for purpose, recognising that understanding and good practice continues to evolve.

Ultimately, there will be a toolkit in place that:

- helps teachers and professional staff to support pupils who are trans or exploring their gender identity or how they wish to express their gender identity;

- teachers and professional staff will feel more confident to provide appropriate support;

- trans children and young people will feel supported and included as members of the school community;

- the school community will be supportive of trans pupils.

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5. What evidence are you using?

[1]

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

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The Gunning Principles, established from past court cases, can be helpful in ensuring we apply fairness in engagement and consultation:

Principle 1: Consultation must take place when the proposals are still at a formative stage. You must not have already made up your mind.

Principle 2: Sufficient reasons must be put forward to allow for intelligent consideration and response. Have people been given the information and opportunity to influence?

Principle 3: Adequate time must be given for consideration and response. Is the consultation long enough bearing in mind the circumstances?

Principle 4: The product of consultation must be conscientiously taken into account when finalising the decision.

Have you complied with the duty to engage as described above and are you sufficiently informed to proceed?

Yes	X	**No**	

Engagement (with internal and external stakeholders)

Consider communities of interest or place (where people are grouped together because of specific characteristics or where they live).

Please include engagement with internal networks where appropriate – GLAM and Ethnic Minority Network.

We ensured consultation at a formative stage; a draft toolkit was compiled with the specific intention of making it available for wide consultation.

In the focus groups held and in the 'Participate Vale' platform we clearly outlined the reasoning for the publication of a trans inclusion toolkit, we provided information as to the existing

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

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guidance that was in place and provided the new draft toolkit to enable people who were willing to participate to influence content and decisions.

We gave a 3-month period of consultation and engagement to ensure people had an adequate time for response.

As a result of the engagement and consultation, elements of the toolkit and its content were changed to reflect the consultation responses and we have conscientiously taken this into account whilst finalising the toolkit. The following groups were engaged with since the consultation was launched on 23 January 2023 (the style of engagement has also been noted along with noting if official minutes of meetings have been taken):

- Teaching professionals, specifically Head Teachers, in person via the termly Secondary head teachers meeting. (Minutes taken)

- Pupils, Schools Council network in person. (Minutes taken)

- Vale Youth Council in person (Minutes taken)

- Penarth Youth Action in person (Minutes taken)

- Llantwit Youth Council in person (Minutes taken)

- I AM ME LGBTQ+ support group in person (no minutes taken)

- Parents via school emails and text notification

- Equalities groups which are members of the Vale of Glamorgan Council Equalities Consultative Forum, via hybrid Teams meeting. (Minutes taken)

- Residents of the Vale who are members of the Vale of Glamorgan Council Citizens Panel via email. (No minutes taken)

- Trade unions as part of the Learning & Skills JCF via Teams meeting. (Minutes taken)

- Vale of Glamorgan Diocesan Leads, via Teams meeting. (Minutes taken)

- Safeguarding in Education Group (SEG) which includes LA and WG representatives at an all-Wales level via Teams meeting. (Minutes taken)

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- Safeguarding professionals in Health, Police, Children Services, Adult Services at a local Vale level via Teams meeting. (Minutes taken)

- Brighton & Hove Local Authority via email

- Cardiff & Vale VAWDSV representatives via Teams meeting. (No minutes taken)

- Learning & Culture Scrutiny Committee via Teams meeting. (Minutes taken)

- Corporate Performance and Resources Scrutiny Committee via Teams meeting. (Minutes taken)

- Vale of Glamorgan Council internal and external websites, Vale of Glamorgan Council Social media channels

- Estyn via email

- Secondary School Wellbeing Leads via Teams meeting. (Minutes taken)

- GLAM network by email.

Consultation (with internal and external stakeholders) ~~

Consider communities of interest or place (where people are grouped together because of specific characteristics or where they live).

Please include consultation with internal networks where appropriate – GLAM and Ethnic Minority Network.

The main form of consultation took place via the 'Participate Vale' IT platform where a series of questions focussing on each section of the trans inclusion toolkit was asked. This consultation was made available in English and Welsh and the language used accessible by most reading age groups. The 'Participate Vale' platform allows for collection of data including ethnicity, gender, sexual orientation, role – for example, parent, learner, professional. The Consultation allowed for a series of pre-formatted responses along with the added option of a free text response.

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For members of the community not wanting to use the 'Participate Vale' platform, there was the facility to respond by email to a designated email box to allow extended consultation to take place.

There were 591 responses to the online survey, 590 of these were submitted in English. Just over 50% of responses were from parents. There were around 100 responses to the survey from pupils and schools-based staff, which represents 18% of respondents, in addition to face-to-face engagement with these groups. The third highest response rate was from school governors at 8.1%.

65.6% of respondents described their gender as female, 20.2% identified as male, 3.6% of respondents identify as non-binary and the remaining 10.5% of respondents selected 'other' or 'prefer not to say'. The census 2021 data shows the sex split in the Vale as 52% female, 48% male. 7.6% of respondents stated that their gender was different to what they were assigned at birth.

83.2% of respondents were white, 2.6% of respondents were black Caribbean, 1.7% were from mixed ethnic groups, less than 1% of respondents were gypsy or Irish traveller, Arabic, Asian, black African and 6% chose not to disclose this information.

73.9% of respondents describe themselves as heterosexual, 6% gay or lesbian, 5% bi-sexual, 2.9% pansexual and 10% preferred not to disclose this information. This compared with 90.3% of the Vale's population describing themselves as heterosexual or straight according to Census 2021 data, 1.7% gay or lesbian, 1.10% bisexual and 0.2% pansexual.

83% of respondents were not registered disabled, 10.2% were.

The highest proportion of respondents (30.4%) lived in Barry, closely followed by the eastern Vale (29.5%), then 20.4% were from the Western Vale and 19.4% did not live in the Vale of Glamorgan.

The survey asked 8 questions, one example of the type of response and how broken down is shown:

How important do you think having this guidance document and toolkit is to ensure trans and gender exploring children and young people feel safe to learn?

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

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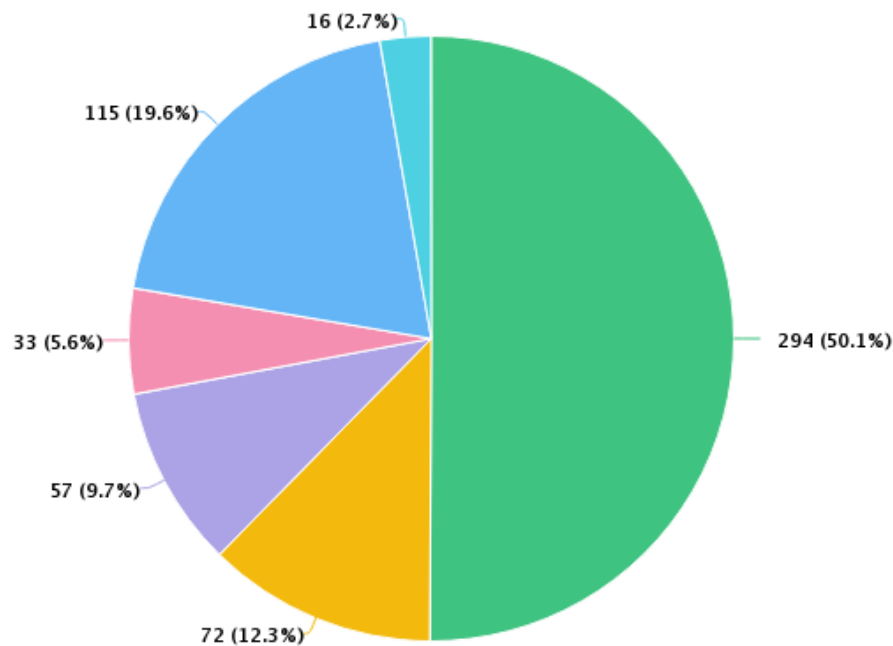
Question options
(Click items to hide)

● Very important   ● Fairly Important   ● Neither important nor unimportant   ● Fairly unimportant   ● Very unimportant   ● Don't know /

62.4% of respondents thought that having this guidance document is either very or fairly important to ensure trans children and young people feel safe to learn. 25.2% thought that this guidance is fairly or very unimportant. As well as the overall responses, response rates from certain groups (parents, school staff and pupils, and protected groups as defined by the Equality Act 2010) have been analysed separately.

This was how their responses differed.

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

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How important do you think having this guidance document and toolkit is to ensure trans
and gender exploring children and young people feel safe to learn?
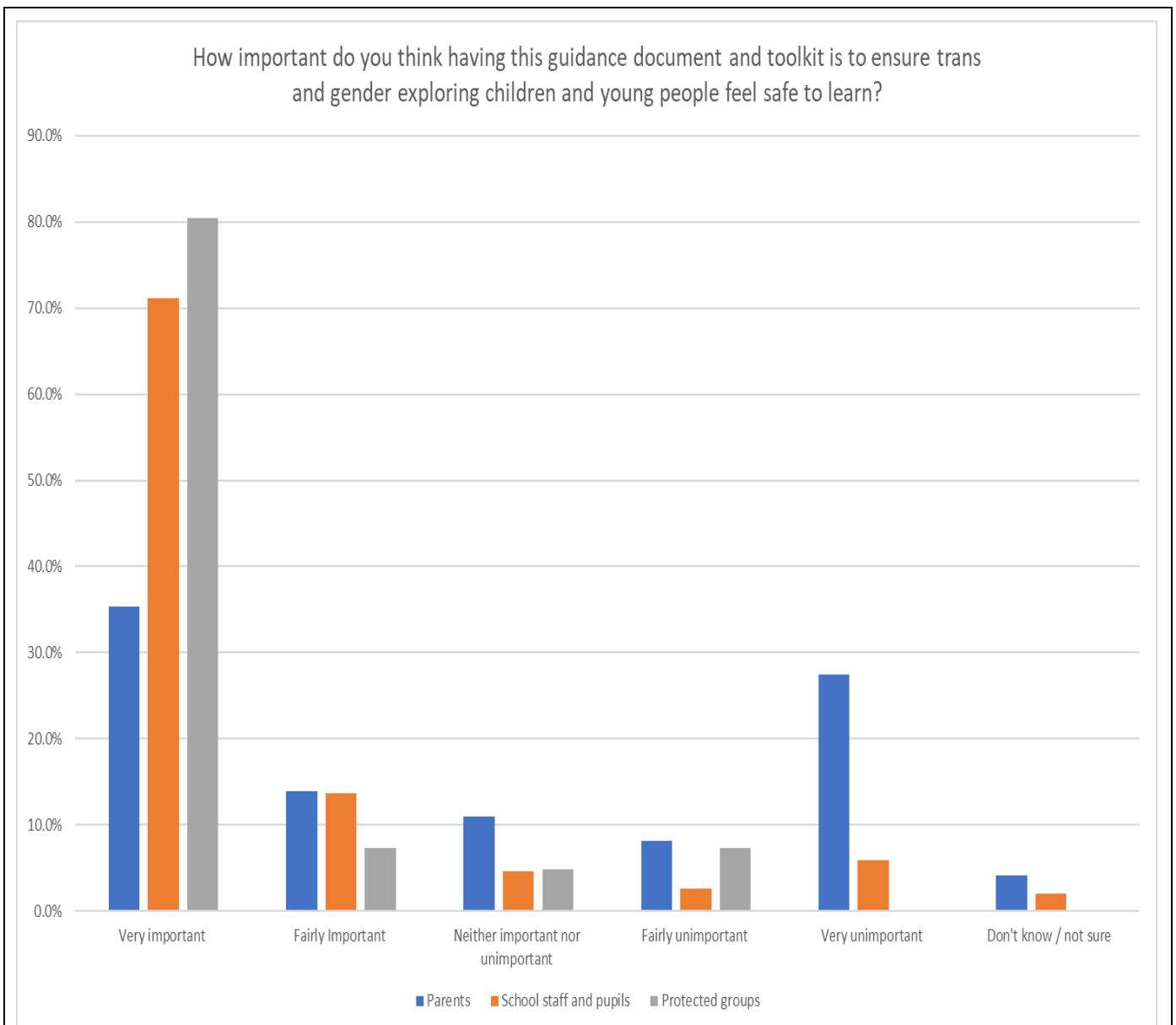
Whilst most school staff and pupils and those from protected groups felt the guidance was important (71% and 81% respectively), only 35% of parents felt this guidance is very important and 27% of parents felt this guidance is very unimportant.

In addition to the survey questions posed we also asked for opinion comments from respondents to all of the questions asked, below is the overall comment analysis.

Respondents to the online survey had the opportunity to comment on the contents of the toolkit as a whole and on individual sections. The comments have been analysed as follows.

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

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Sentiment Analysis of all Comments
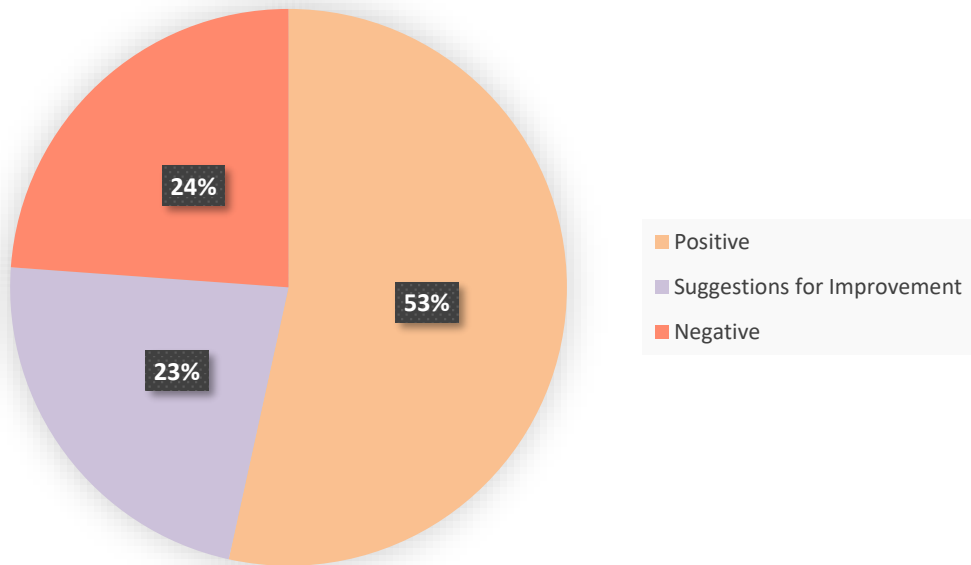
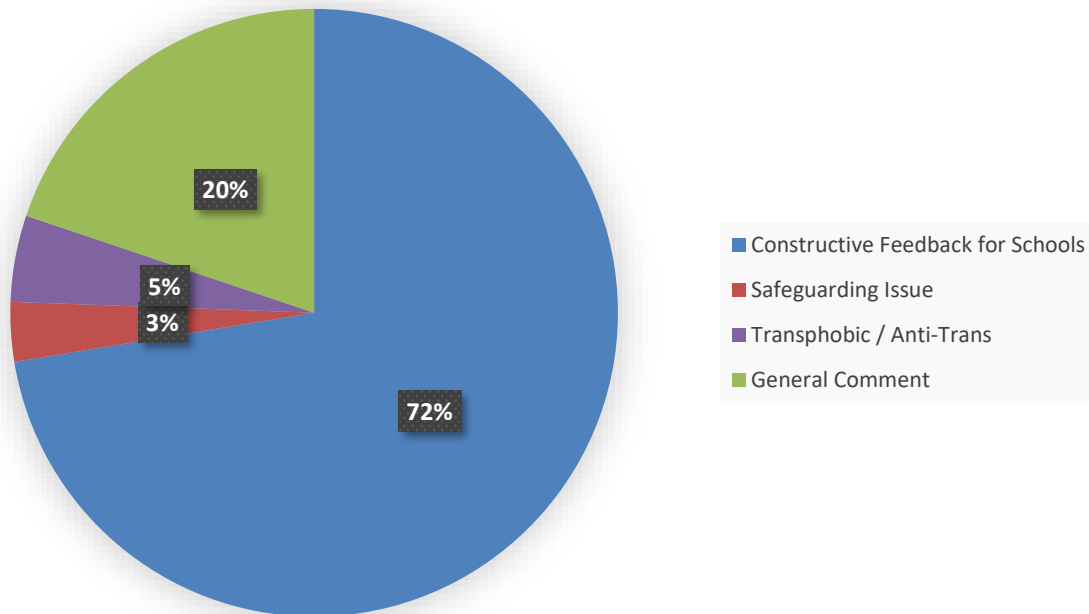| Sentiment	Number of comments
Positive	186
Suggestions for Improvement	79
Negative	83
Total Comments:	**348**

- 186/348 or 53% of all comments were considered "Positive" or supportive of the toolkit.
- 79/348 or 23% of all comments were considered as "Suggestions for Improvement" or supportive of the toolkit but with suggested amendments.
- 83/348 or 24% of all comments were considered "Negative" or not supportive of the toolkit.

The comments have been categorised in the following ways:

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Thematic Analysis of all Comments

Legend:
- ■ Constructive Feedback for Schools
- ■ Safeguarding Issue
- ■ Transphobic / Anti-Trans
- ■ General Comment

Pie chart percentages: 72%, 3%, 5%, 20%

Theme	No. of Comments
Constructive Feedback for Schools	252
Safeguarding Issue	11
Transphobic / Anti-Trans	16
General Comment	69
Total Comments:	**348**

- 252/348 or 72% of all comments were considered as "Constructive Feedback for Schools"

- 11/348 or 3% of all comments were considered as a "Safeguarding Issue"

- 16/348 or 5% of all comments were considered as "Transphobic / Anti-Trans"

- 69/348 or 20% of all comments were considered as a "General Comment"

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Written Responses

The Council received nine written responses to the consultation, all of which were sent to the consultation mailbox. Some respondents stated that they had also completed the online survey but had further comments to make.

Of the nine respondents, four were supportive of or in favour of some elements of the toolkit but had concerns about safeguarding, two were against the toolkit being adopted by the local authority and schools, one was awaiting national guidance and two felt that the toolkit needed further consideration of other resources to make it more balanced.

Face to face engagement feedback

School Council Network Meeting

On Friday 3rd February, the Vale Youth Service Participation Team facilitated a termly school council network meeting, which bought together pupils from across seven secondary schools, 37 pupils attended from all Vale secondary schools attended.

During the meeting the Draft Transgender Inclusion Toolkit was shared with pupils who were provided with an opportunity to give their feedback as well ask questions.

All pupils in attendance of the school council network were in support of the Draft Transgender Inclusion Toolkit, all comments and themes that were raised and have been recorded.

Vale Youth Action and Youth Council Meetings

The Vale Youth Service Participation team undertook consultation focus groups between the 16th of February and 14th March 2023 with young people who are members of different participation projects and interest groups. Those participating were:

- Penarth Youth Action – 16th February, 8 young people aged 13-17
- Vale Youth Council – 22nd February, 11 young people aged 12-17
- Llantwit Youth Council – 2nd March, 9 young people aged 11-16
- I AM ME (LGBTQ+ Wellbeing Support Group) – 14th March, 7 young people aged 13-16

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

Equality Impact Assessment
Including the Welsh Language and Socio-economic Duty

All 35 young people who engaged in the consultation on the Draft Transgender Inclusion Toolkit were in support and agreement that there was a need to have a guidance toolkit for school staff. All comments and themes that were raised have been recorded.

National data and research

The following national research has been considered:

- **Equality and Human Rights Commission's 'Is Wales Fairer 2018' Report**

  'Certain groups of children are more at risk of being bullied than others. Sexist bullying tends to be targeted at girls, while lesbian, gay, bisexual and transgender (LGBT) children, and children with ALN are also more likely to be victims of bullying.'

- **The Welsh Government 'Belonging, engaging and participating Guidance on improving learner engagement and attendance'** includes the following:

Contributing factors: the many possible reasons for absence (page 12)
…there are a number of factors which may place learners particularly at risk of missing school, including but not limited to:

- transgender, non-binary or gender-questioning children

Building positive relationships, culture and ethos (page 17)
Improving learner engagement requires schools to develop positive relationships and an inclusive, welcoming ethos and culture. A positive school ethos and culture is also essential to developing positive learner behaviour in the classroom, around the school and in the wider community.

Supporting children who are bullied (page 41)
Bullying can be a significant factor in children and young people's absence from school. We know that learners with some protected characteristics are more likely to experience bullying and this can be a reason for absence. Teachers are encouraged to actively check this with learners, and be aware that bullying is disproportionately experienced by some learners including those that are LGBTQ+.

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

Equality Impact Assessment
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- **The British Psychological Society 'Transgender children face discrimination even at primary school level'**

  This report refers to a study in the British Journal of Educational Psychology 'Institutional cisnormativity and educational injustice: Trans children's experiences in primary and early secondary education in the UK'.

  'As educators, parents and child rights advocates, we can recognize and support trans children's agency, while also clearly standing by a basic tenet; that life should not be so hard for our trans pupils.'

- **More in Common's Britons and Gender Identity**

  The public are keen that schools create environments where young people who are questioning their gender identity feel supported and want schools to proactively talk about trans people. Though many are concerned about young people making life altering decisions (such as taking cross-sex hormones before the age of 18) without thorough medical assessment and advice.

  When it comes to single sex spaces, the public distinguish between those who have undergone gender reassignment surgery and those who have not. Most either support or are indifferent about introducing more unisex toilets in most places, but there is less support in schools.

- **Stonewall's School Report 2017**

  - Research shows anti-LGBT bullying and language has decreased across Britain's schools since 2012

  - Schools are increasingly condemning anti-LGBT bullying and celebrating difference

  - More than half of LGBT young people in Wales (54%) and almost threequarters of trans young people (73%) face bullying at school for being LGBT and more than two in five trans young people have tried to take their own life.

Local data and research

The Transgender Inclusion Toolkit and Guidance Document for Schools and other settings was first adopted by the Vale of Glamorgan Council in 2018 (Cabinet Minute C300 refers). The

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

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background to the introduction of that document followed a number of requests, dating from 2016, from Vale of Glamorgan schools asking for additional advice and guidance. The document was developed in response on behalf of the five Central South Consortium Local Authorities. Welsh Government were keen for Local Authorities in Wales to adopt the Toolkit which was also adopted by other Local Authorities in Wales, and in some cases subsequently withdrawn by other councils in Wales.

In recognising social and political contexts and landscapes change over time, more recently the Council has been progressing its review of the toolkit having liaised with colleagues in Welsh Government and other Local Authorities in England and elsewhere in Wales. The Coronavirus (Covid-19) pandemic delayed progress of this work, but since emerging from the pandemic, this work has been progressed. It is more important than ever to ensure that appropriate advice is given to schools to ensure that the duties owed by the Local Authority are met in respect of all people with a protected characteristic, and to take account of the developments in case law and reviews undertaken

Estyn has **produced "Celebrating diversity and promoting inclusion: Good practice in supporting lesbian, gay, bisexual and transgender (LGBT) learners in schools and colleges", October 2020**, which also highlights need to support schools with guidance in these matters

6. How robust is the evidence?

Does it show what the impact will be (positive and negative)?

National research shows that almost three quarters of trans young people (73%) face bullying at school. Providing guidance to schools on how to support young people will have a positive impact.

The Consultation survey conducted had a significant level of response from differing sections of society within our local communities and it is clear that the majority of respondents felt that there was a definite need for the toolkit to be used in schools and the impact on children and young people would be mostly positive.

Equality Impact Assessment
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We think the impact is going to be positive based on the evidence that we have gained through consultation. We are going to monitor impact moving forward so that we can determine whether the positive impact we anticipated has materialised or if not, what we need to do to achieve this.

What are the gaps?

This area of guidance continuously evolves and changes as the law, practice and procedure develop. We will continue to gather and consider evidence as the toolkit is embedded in school practice. We are acutely aware of the position in England in respect of guidance of this kind and we currently await publication of Welsh Government Trans guidance, potentially in 2024.

What will you do about this?

We will continue to gather and consider evidence as the toolkit is embedded in school practice. Upon publication of Welsh Government guidance, we will ensure that our toolkit is in line with this guidance or withdrawn from schools so that Welsh Government guidance can be followed.

What monitoring data will you collect?

We will consider collecting data from schools that we can use to monitor ongoing impact of having guidance in place, this will include such data sets as:

- MY CONCERN, where we can analyse levels of bullying and prejudice incidents involving transphobia and other protected characteristics, thereby also understanding if any intersectionality is present.

- I Am Me group / Youth Parliament – we could ensure regular engagement with youth forums of this kind to ascertain what type of impact the toolkit has had in schools.

- Head Teachers focus group to see if the toolkit has helped staff in schools better understand trans children and young person's needs

- SELFIE /SHRN data collected on an annual basis.

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

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- Carry out a consultation survey in 1 year after publication on the guidance to young people and teaching staff to understand the impact the toolkit has had in school settings

How often will you analyse and report on this?

Biennially

Where will you publish monitoring data and reports?

The Annual Equality Monitoring Report which is published on Vale of Glamorgan Council website.

Monitoring of the toolkit along with reported levels of transphobic prejudice incidents and bullying will be monitored as part of Learning & Skills Directorate Management Team meetings on a quarterly basis.

7. Impact

Is there an impact?

Yes. We anticipate a positive impact as we are putting constructive guidance in place for teachers and teaching staff to help support trans children and all learners. We have noted in the consultation feedback that it shows that there is some negativity / transphobia but on the whole the commentary is positive. It is recognised that this is pre-implementation so not necessarily an impact but we will ensure that this is monitored post-implementation.

If there is no impact, what is the justification for thinking this? Provide evidence.

If there is likely to be an impact, what is it?

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

Equality Impact Assessment
Including the Welsh Language and Socio-economic Duty

Age

Positive

The toolkit will help children and young people who are exploring their gender identity.

In addition, as already discussed, the topic of 'Gillick competency' was raised in that it was felt that some children and young people may be too young or too immature to make life changing decisions over social transitioning to a different gender and not having the ability to understand the impact and consequences of their decision making. This has been addressed within the toolkit.

Disability

Positive

There is some evidence to show a link between gender dysphoria and autism, and that autistic people may be more likely than other people to have gender dysphoria. However, there is little evidence about the reason(s) why, and some recent research suggests the link between autism and gender dysphoria is not so clear. More research is needed. More research is also required to develop and test assessment tools, support and treatment for autistic people experiencing gender dysphoria (National Autism Society).

We do not make any reference in the guidance for using accessible toilets as an alternative provision for trans and gender variant learners as this could potentially have a negative impact on disabled learners, however, we are mindful that in schools with older building designs with limited available space this could be seen as an option for schools and the needs of all learners would need to be considered.

Gender reassignment, including gender identity

Ensure policies explicitly include same-sex couples and use gender neutral language.

Positive

This toolkit is aimed at supporting this group of people but the toolkit is very clear that it is only supporting social transition where the relevant conditions are met, and any other additional medical or health advice relating to (for example) breast binding or puberty blockers will be directed to NHS services via the learner's GP.

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

Equality Impact Assessment
Including the Welsh Language and Socio-economic Duty

Marriage and civil partnership (discrimination only)

No impact.

Pregnancy and Maternity

No impact

Race

The impact might be positive, negative or neutral depending on the extent to which there is an overlap between religion and ethnicity.

Within some religious groups (Hindus and Muslims) there is very little variation in ethnicities represented. Many people consider their religion to be an important part of their ethnic identity and it is often difficult to disentangle the two (McMaster, 2020).

Religion and belief

The impact might be positive, negative or neutral depending on belief.

We received comments suggesting that some individual staff with particular religious beliefs may not be comfortable referring to a trans pupil with their chosen pronouns. The toolkit is quite clear in the approach staff should take in that they should seek to be consistent in their use of preferred names and pronouns, to protect a child or young person's confidentiality and not to 'out' them in ways that may be unsafe and exposing.

A response to the consultation was received from a faith school within the Vale of Glamorgan which read:

> "Having taken advice from the Diocese, we understand that the Government has begun working on the development of national guidance for schools, and that their officials are liaising with the Catholic Education Service, Diocesan Directors and church school practitioners, along, presumably, with local authorities and other stakeholder groups, prior to producing a draft for formal consultation.
>
> On the assumption that any local guidance would need to take account of that published by Welsh Government, the advice from the Diocese is that it would be sensible to wait for national guidance on this subject before responding to any local consultations.'

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

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Sex

In the toolkit, we have focussed on specific issues raised during the consultation process around toilets, changing facilities and school trips. We have considered what the impact might be on trans and other learners and how to mitigate issues arising from safety, embarrassment, lack of dignity or privacy. This has been addressed in previous sections of this report.

Sexual orientation

Ensure policies explicitly include same-sex couples and use gender neutral language.

No impact

Socio-economic considerations

Socio-economic disadvantage can be disproportionate in both communities of interest and communities of place – think about how this leads to further inequality of outcome and how intersectionality can exasperate this.

No impact

Welsh language

How does your proposal ensure that you are working in line with the requirements of the Welsh Language Standards (Welsh Language Measure (Wales) 2011), to ensure the Welsh language is not treated less favourably than the English language, and that every opportunity is taken to promote the Welsh language (beyond providing services bilingually) and increase opportunities to use and learn the language in the community?

The guidance will be available in both Welsh and English.

During consultation, concerns were raised over the use of terminology, in particular the use of masculine/feminine verbs, for example, 'athro' (teacher). We are cognisant that there is a Welsh Government working group looking at this topic and as a local authority, we will use agreed terminology when it is published.

Human rights

The following articles are considered relevant:
Article 2 Protocol 1 : Education

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

Equality Impact Assessment
Including the Welsh Language and Socio-economic Duty

Article 8 : Right to private life

Article 9: Right to freedom of religion and belief

Article 10: Right to freedom of expression

Article 14: Right to non-discrimination

How do you know?

Explain this for each of the relevant protected characteristics as identified above

National research has identified the challenges that trans pupils face. The toolkit will assist school staff to support these children and young people appropriately in a school setting as well as signposting families to organisations outside the school that can help them.

What can be done to promote a positive impact?

Explain this for each of the relevant protected characteristics as identified above.

- Consultation responses raised concerns regarding the perceived lack of safety of girls and the need to balance the rights of trans children and the rights of children with other protected characteristics. A specific example relates to access by trans girls to ' girls' toilets, girls' changing rooms and girls' dormitories on residential trips with concerns being raised about safety, the need for privacy, the potential for embarrassment and the right to dignity. Taking these comments into consideration changes have been made to the draft Toolkit and clear and definitive guidance will be given in all of these circumstances for clarity and approach, and any further issues which may arise in the future, ensuring that   the needs of all children and young people involved are balanced, with risk assessments undertaken based on the individual circumstances and available information in each case.

- Training for teachers will be delivered to ensure that teachers have a clear understanding of the issues, in strengthening confidence in using the toolkit to provide appropriate support to trans pupils to achieve a positive experience for trans pupils

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

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when they require support. We are currently sourcing this training and anticipate rolling it out in 2024-25

What can be done to lessen the risk of a negative impact?

Explain this for each of the relevant protected characteristics as identified above.

As above, we feel that providing training for teachers will be important in lessening the risk of a negative outcome. We will monitor the impact through ongoing discussions with the school community (as described in the monitoring section below).

Is there a need for more favourable treatment to achieve equal outcomes? (Disability only)

No

Will the impact be positive, negative or neutral?
Explain this for each of the relevant protected characteristics as identified above.
Positive overall however as the consultation responses raised concerns regarding the perceived lack of safety of girls and the need to balance the rights of trans children and the rights of children with other protected characteristics, changes have been made to the draft Toolkit and clear and definitive guidance will be given in all of these circumstances for clarity and approach, and any further issues which may arise in the future, ensuring that the needs of children and young people with a particular characteristic, including sex are balanced, with the rights of trans pupils.

8. Monitoring ongoing impact

Date you will monitor progress and outcomes
Twelve months after we publish the guidance.

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

Equality Impact Assessment
Including the Welsh Language and Socio-economic Duty

Measures and outcomes that you will monitor

The consultation responses raised concerns regarding the perceived lack of safety of girls and the need to balance the rights of trans children and the rights of children with other protected characteristics, changes have been made to the draft Toolkit and clear and definitive guidance will be given in all of these circumstances for clarity and approach. There will be ongoing review to ensure that the needs of children and young people with a particular characteristic, including sex are balanced, with the rights of trans pupils. Ensuring that the needs of children and young people with a particular characteristic, including sex are balanced, with the rights of trans pupils.

The analysis of school-based data sets:

- MY CONCERN, where we can analyse levels of bullying and prejudice incidents involving transphobia and other protected characteristics, thereby also understanding if any intersectionality is present.

- I Am Me group / Youth Parliament – we could ensure regular engagement with youth forums of this kind to ascertain what type of impact the toolkit has had in schools.

- Head Teachers focus group to see if the toolkit has helped staff in schools better understand trans children and young person's needs.

- SELFIE /SHRN data collected on an annual basis.

- Carry out a consultation survey in 1 year after publication on the guidance to young people and teaching staff to understand the impact the toolkit has had in school settings.

Date you will review implemented proposal and its impact

A year after we publish the guidance.

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

Equality Impact Assessment
Including the Welsh Language and Socio-economic Duty

9. Further action as a result of this equality impact assessment

Possible Outcomes	Say which applies
No major change	
Adjust the policy	Toolkit was amended to address the concerns raised during engagement and consultation.
Continue the policy	Continue with policy
Stop and remove the policy	

10. Outcomes and Actions

Recommend actions to senior management team
Toolkit to be adopted and circulated to schools for reference.
Outcome following formal consideration of proposal by senior management team
To be determined

11. Important Note

Where you have identified impacts, you must detail this in your Cabinet report when seeking approval for your proposal.

Reference: Equality Impact Assessment Form March 2021 (Equality, Vale of Glamorgan Council)

Equality Impact Assessment
Including the Welsh Language and Socio-economic Duty

12. Publication

Where will you publish your approved proposal and equality impact assessment?

On the Vale of Glamorgan Council's website as part of the Cabinet report.

In addition to anywhere you intend to publish your approved proposal and equality impact assessment, you must send a copy to Tim Greaves, Equality Co-ordinator, to publish on the equality pages of the Vale of Glamorgan website.

13. Authorisation

Approved by (name)	Elizabeth Jones
Job Title (senior manager)	Head of Additional Learning Needs and Wellbeing
Date of approval	? January 2024
Date of review	30 January 2025

Consultation Report

Methodology

The draft Transgender Inclusion Toolkit was agreed for consultation by the Council's Cabinet on 19 January 2023.

The public consultation began on 23 January and ran for a period of seven weeks until 17 March 2023.

The consultation was hosted through the Council's public participation software, Participate Vale.

A list of agreed stakeholders, as identified in the Cabinet Report, were contacted, primarily via email, once the consultation began. Stakeholders were invited to respond to the consultation through Participate Vale.

The link to the dedicated consultation page was also published on the Council's website and the wider community were informed of the consultation via social media and invited to respond.

Residents who have subscribed to emails relating to consultations were also invited to respond.

Council officers also attended a series of meetings with stakeholders, some face to face and some online or in hybrid format, to present the draft toolkit and invite feedback as part of the consultation. The following stakeholders have been invited to share their views.

Stakeholder	Engagement method
Teaching professionals, specifically Head Teachers	In person termly headteachers meeting (secondary schools)
Pupils Schools Council network	In person
Parents	Via school emails and text notification with the direct link to the Participate Vale page
Organisations who are members of the Vale of Glamorgan Council Equalities Consultative Forum	Via hybrid (Teams) meeting and the direct link to the Participate Vale page was shared following the meeting.
Residents of the Vale who are members of the Vale of Glamorgan Council Citizens Panel	Via email with the direct link to the Participate Vale page
Trade unions as part of the Learning & Skills Joint Consultative Forum? (JCF)	Via Teams meeting.
Vale of Glamorgan Diocesan Leads	Via Teams meeting.
Safeguarding in Education Group (SEG) which includes LA and WG representatives at an all Wales level	Via Teams meeting.
Safeguarding professionals in Health, Police, Children Services, Adult Services at a local Vale level	Via Teams meeting.
Brighton & Hove Local Authority Cardiff & Vale VAWDSV representatives	Via Email. Via Teams meeting.
Learning & Culture Scrutiny Committee	Via Teams meeting.

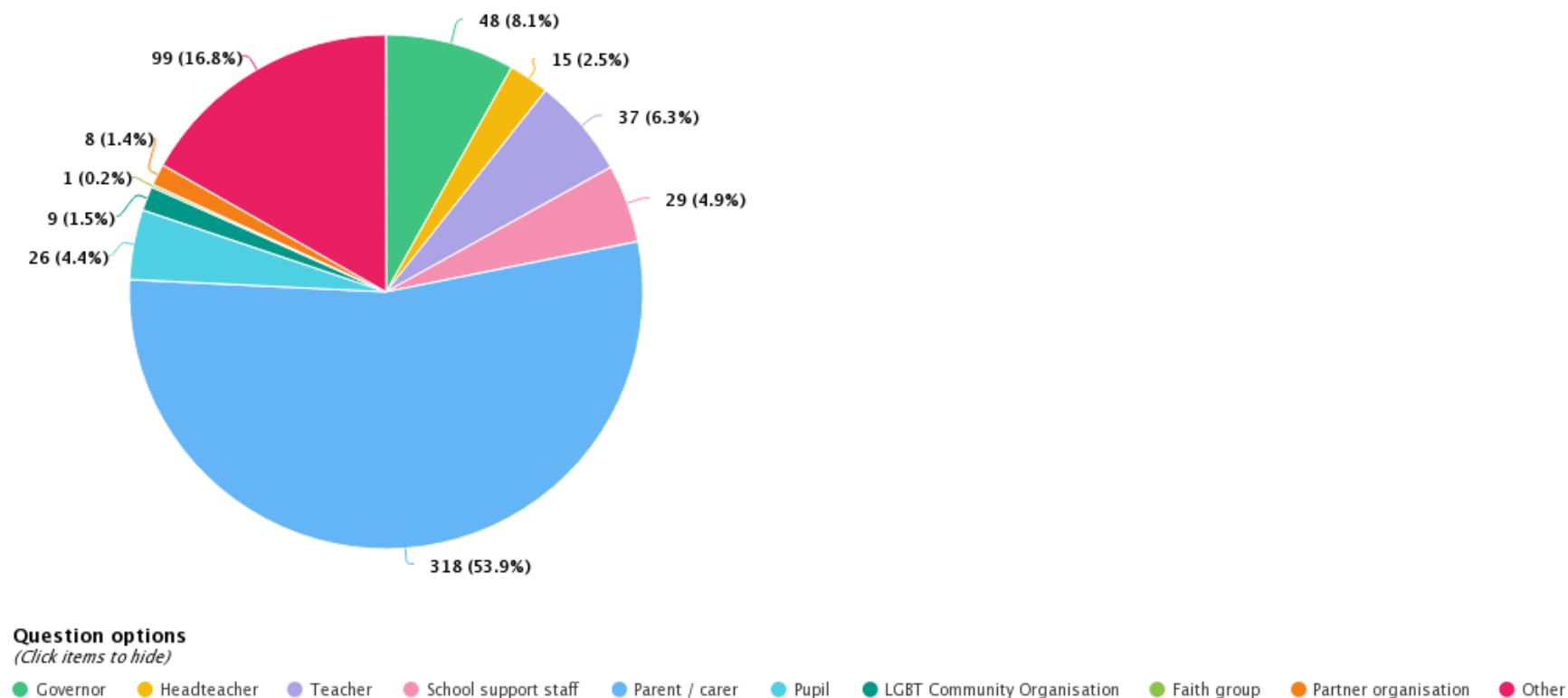| Corporate Performance and Resources Scrutiny Committee	Via Teams meeting.
Estyn	Via Email.

Responses to the online survey

There were 591 responses to the online survey, 590 of these were submitted in English. A summary of responses to the English survey has been attached at Appendix A to this report. The response to the Welsh survey has been considered however it has not been attached so as not to inadvertently identify the respondent.

Profile of Respondents to the online survey

As shown in the chart below, just over 50% of responses were from parents. There were around 100 responses to the survey from pupils and schools-based staff, which represents 18% of respondents, in addition to face-to-face engagement with these groups which will be detailed later in this report. The third highest response rate was from school governors at 8.1%.

48 (8.1%)

15 (2.5%)

99 (16.8%)

37 (6.3%)

8 (1.4%)

1 (0.2%)

29 (4.9%)

9 (1.5%)

26 (4.4%)

318 (53.9%)

Question options
(Click items to hide)

● Governor ● Headteacher ● Teacher ● School support staff ● Parent / carer ● Pupil ● LGBT Community Organisation ● Faith group ● Partner organisation ● Other
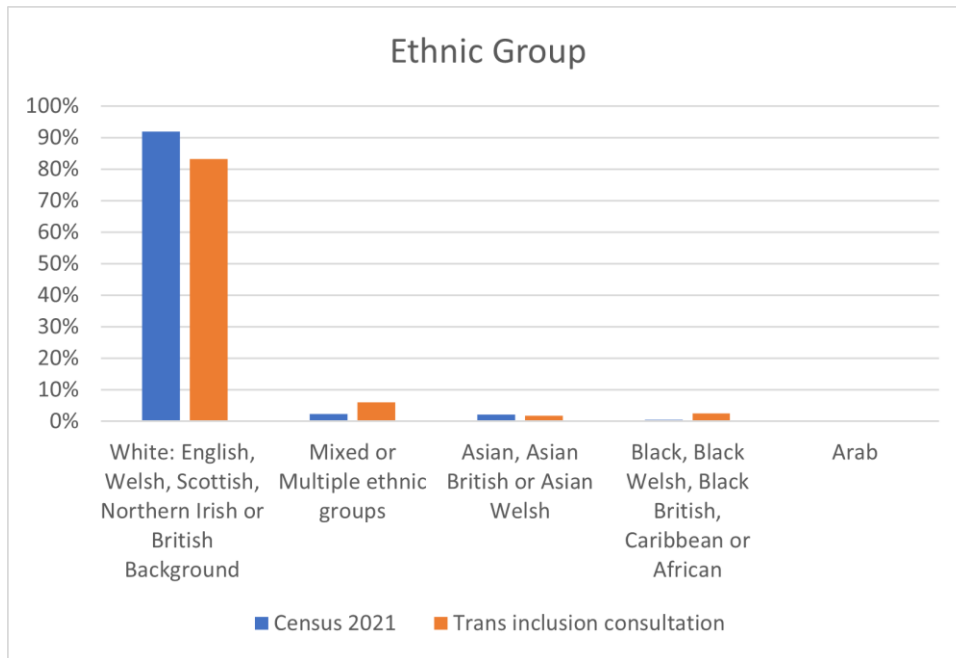
There have been representations from the majority of schools in the Vale in addition to elected members, local health boards and neighbouring authority areas.

65.6% of respondents described their gender as female, 20.2% identified as male, 3.6% of respondents identify as non-binary and the remaining 10.5% of respondents selected 'other' or 'prefer not to say'. The census 2021 data shows the sex split in the Vale as 52% female, 48% male.

7.6% of respondents stated that their gender was different to what they were assigned at birth. The figure for the whole of the Vale according to census data is 0.36%.
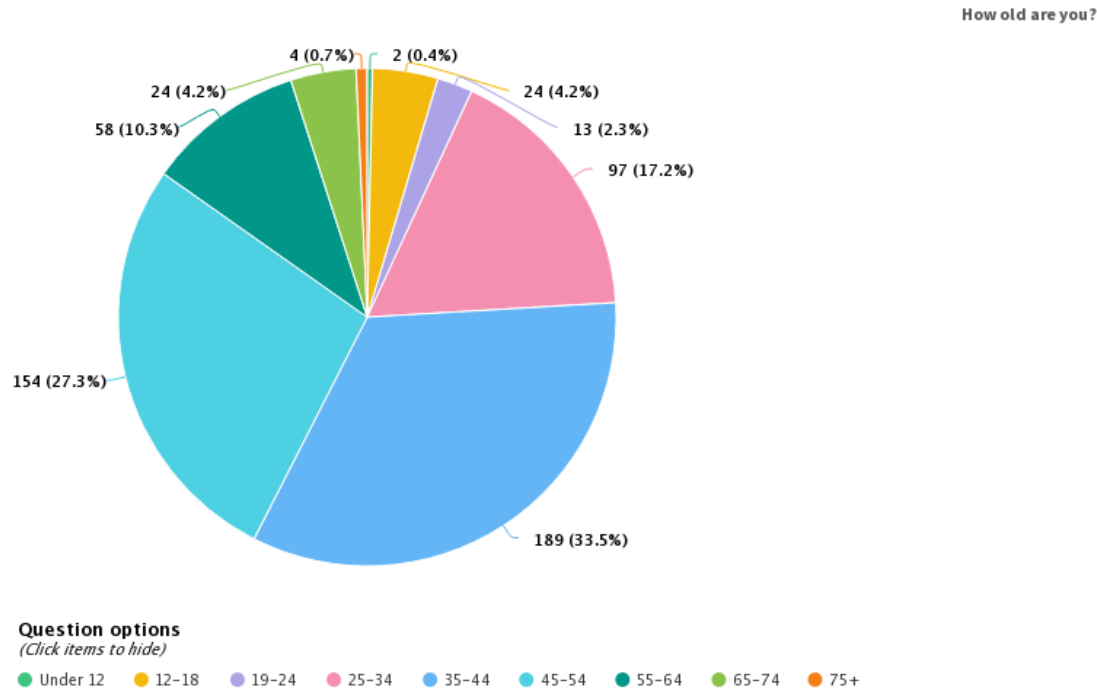
83.2% of respondents are white, 2.6% of respondents are black Carribean, 1.7% are from mixed ethnic groups, less than 1% of respondents are gypsy or irish traveller, Arabic, Asian, black African and 6% chose not to disclose this information. The chart below shows how this compares with the census 2021 data.

Ethnic Group

Category	Census 2021	Trans inclusion consultation
White: English, Welsh, Scottish, Northern Irish or British Background	~92%	~83%
Mixed or Multiple ethnic groups	~3%	~6%
Asian, Asian British or Asian Welsh	~3%	~2%
Black, Black Welsh, Black British, Caribbean or African	~1%	~3%
Arab		

Legend: ■ Census 2021 ■ Trans inclusion consultation

73.9% of respondents describe themselves as heterosexual, 6% are gay or lesbian, 5% are bi-sexual, 2.9% are pansexual and 10% preferred not to disclose this information. This compares with 90.3% of the Vale's population describing themselves as heterosexual or straight according to Census 2021 data, 1.7% gay or lesbian, 1.10% bisexual and 0.2% pansexual.

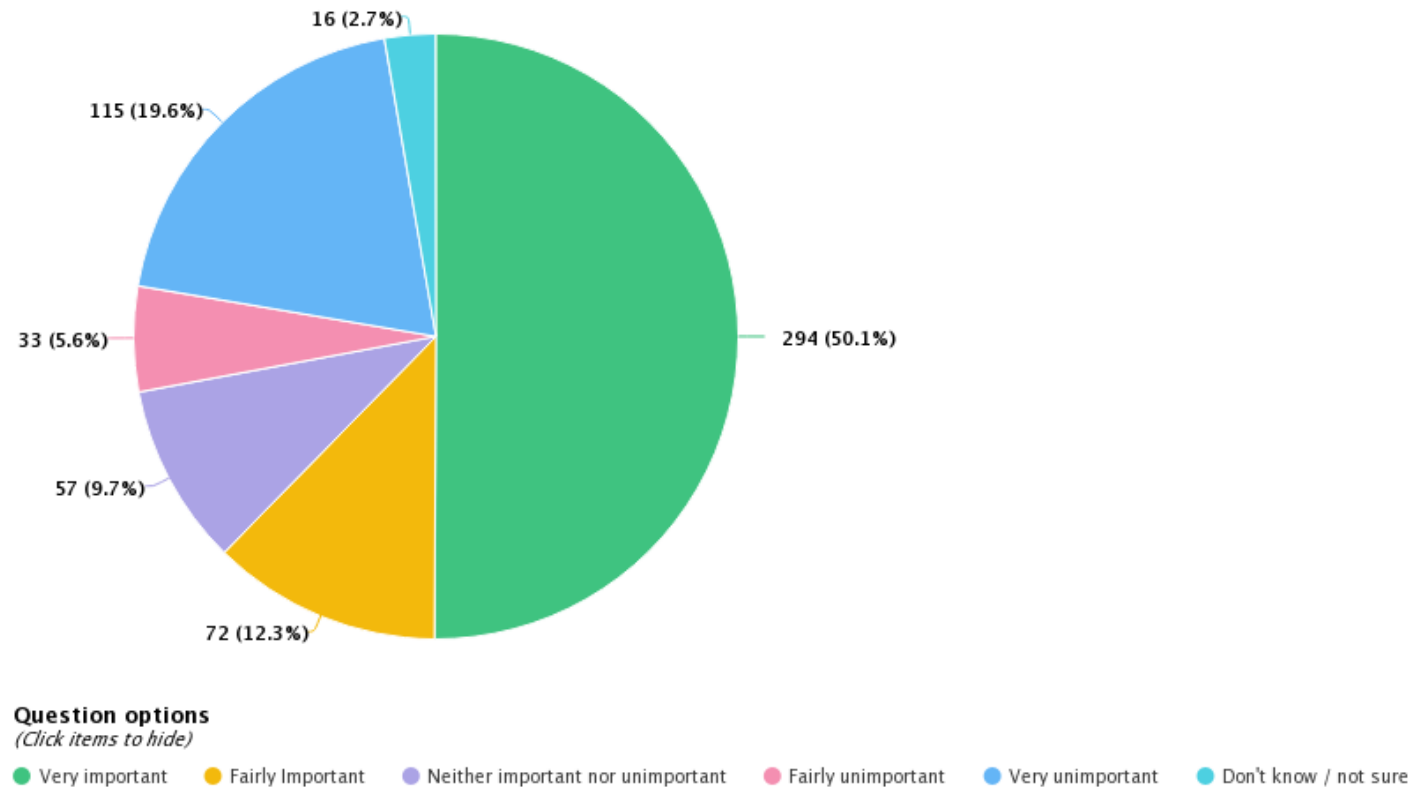83% of respondents are not registered disabled, 10.2% are.

The chart below shows the age profile of respondents.

How old are you?

4 (0.7%)
2 (0.4%)
24 (4.2%)
24 (4.2%)
13 (2.3%)
58 (10.3%)
97 (17.2%)
154 (27.3%)
189 (33.5%)

Question options
(Click items to hide)

● Under 12   ● 12–18   ● 19–24   ● 25–34   ● 35–44   ● 45–54   ● 55–64   ● 65–74   ● 75+

The highest proportion of respondents (30.4%) live in Barry, closely followed by the eastern Vale (29.5%), then 20.4% are from the Western Vale and 19.4% do not live in the Vale of Glamorgan.
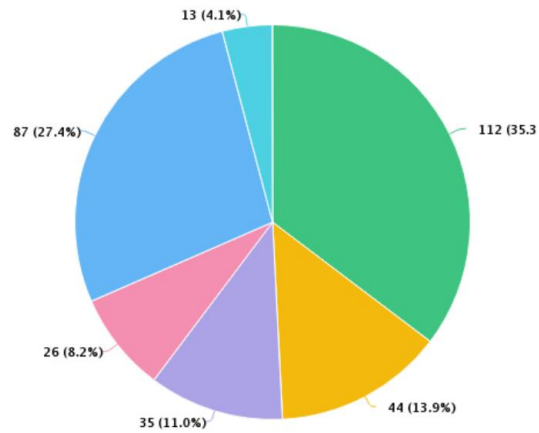
Section 1 – Introduction

Question: How important do you think having this guidance document and toolkit is to ensure trans and gender exploring children and young people feel safe to learn?
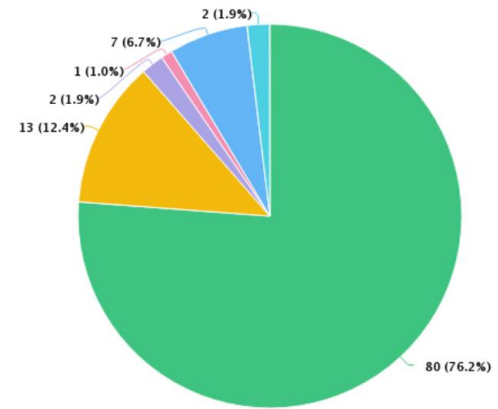
Question options
(Click items to hide)

● Very important   ● Fairly Important   ● Neither important nor unimportant   ● Fairly unimportant   ● Very unimportant   ● Don't know / not sure

62.4% of respondents think that having this guidance document is either very or fairly important to ensure trans and gender exploring children and young people feel safe to learn. 25.2% think that this guidance is fairly or very unimportant. As well as the overall responses, response rates from certain groups (parents, school staff and pupils, and protected groups) have been analysed separately.
Here's how their responses differ.

Legend: ● Very important ● Fairly Important ● Neither important nor unimportant ● Fairly unimportant ● Very unimportant ● Don't know / not sure

Parents

- 13 (4.1%)
- 87 (27.4%)
- 26 (8.2%)
- 35 (11.0%)
- 44 (13.9%)
- 112 (35.3)

Staff and Pupils

- 3 (7.3%)
- 0 (0.0%)
- 2 (4.9%)
- 3 (7.3%)
- 0 (0.0%)
- 33 (80.5%)

Protected Groups

- 2 (1.9%)
- 7 (6.7%)
- 1 (1.0%)
- 2 (1.9%)
- 13 (12.4%)
- 80 (76.2%)
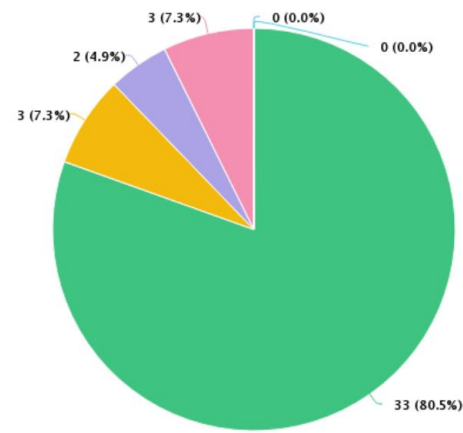
Whilst most school staff and pupils and those from protected groups feel this guidance is important, 71% and 81% respectively, only 35% of parents feel this guidance is very important and 27% of parents feel this guidance is very unimportant.

Section 2 - **Developing understanding of trans, non-binary and gender exploring children and young people**

Question:

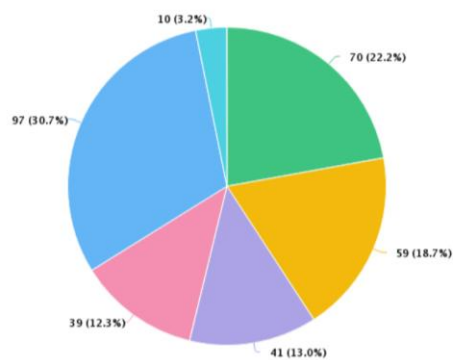Do you agree or disagree this section helps build understanding of sex, gender and sexual orientation?
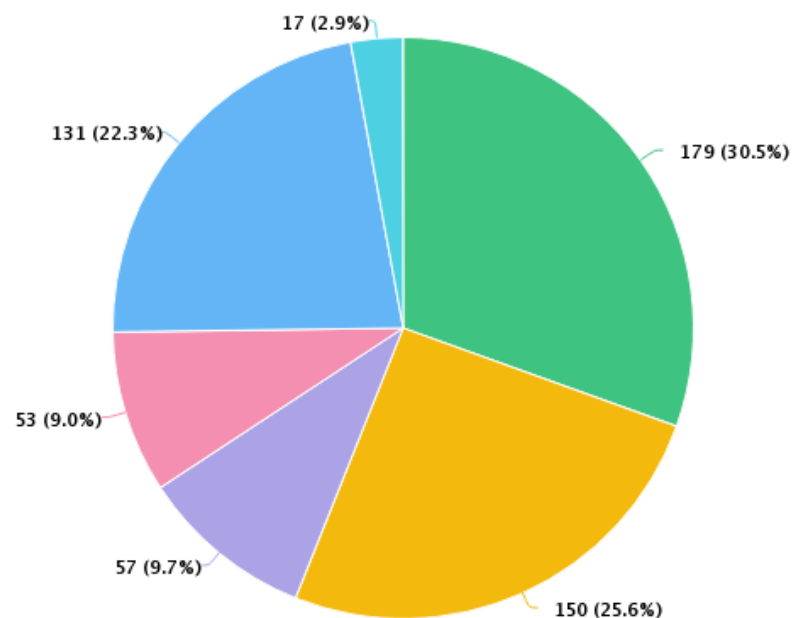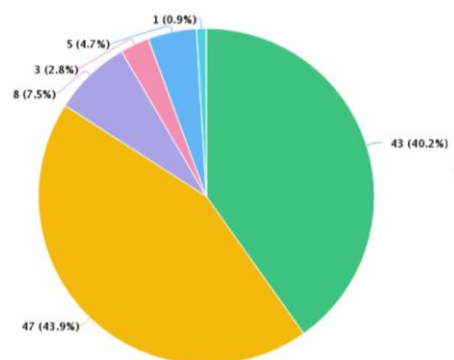

Question options
(Click items to hide)

● Strongly agree ● Agree ● Neither agree nor disagree ● Disagree ● Strongly disagree ● Don't know / not sure

Just over half of respondents (56.1%) either strongly agree or agree that this section helps build understanding of sex, gender and sexual orientation. Whilst 31.3% either strongly disagree or disagree. As well as the overall responses, response rates from certain groups (parents, school staff and pupils, and protected groups) have been analysed separately. Here's how their responses differ.
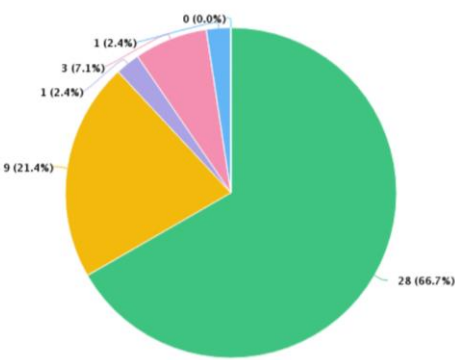

● Very important ● Fairly Important ● Neither important nor unimportant ● Fairly unimportant ● Very unimportant ● Don't know / not sure

Parents

10 (3.2%)
70 (22.2%)
97 (30.7%)
59 (18.7%)
39 (12.3%)
41 (13.0%)

Staff and Pupils

1 (0.9%)
5 (4.7%)
3 (2.8%)
8 (7.5%)
43 (40.2%)
47 (43.9%)

Protected Groups

0 (0.0%)
1 (2.4%)
3 (7.1%)
1 (2.4%)
9 (21.4%)
28 (66.7%)
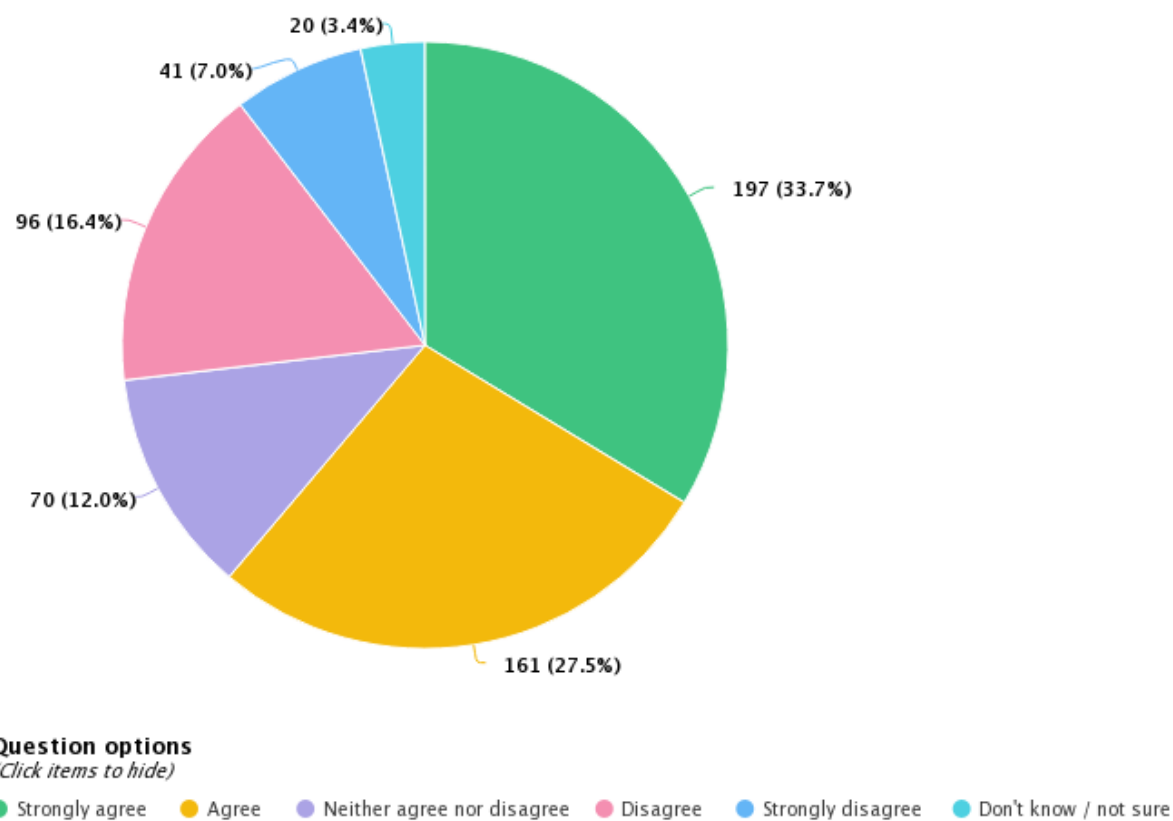
Whilst school staff and pupils and protected groups on the whole agree that this section of the guidance is helpful, there's a mixed response from parents with some agreeing and some disagreeing.

Section 3 - Legal Context and ESTYN Framework

Question: Do you agree or disagree this section provides useful information for schools?

Question options
(Click items to hide)

- Strongly agree
- Agree
- Neither agree nor disagree
- Disagree
- Strongly disagree
- Don't know / not sure

Pie chart values:
- 197 (33.7%)
- 161 (27.5%)
- 70 (12.0%)
- 96 (16.4%)
- 41 (7.0%)
- 20 (3.4%)

The majority of respondents (61.2%) either strongly agree or agree that this section provides useful information for schools. As well as the overall responses, response rates from certain groups (parents, school staff and pupils, and protected groups) have been analysed separately. Here's how their responses differ.
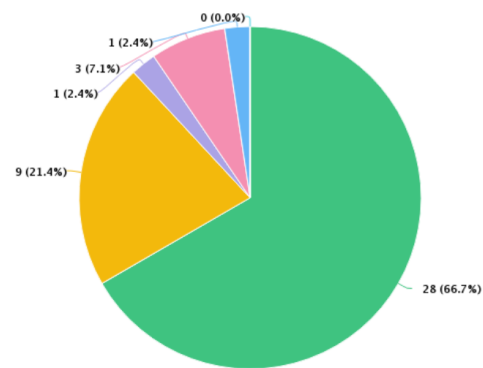
● Very important ● Fairly Important ● Neither important nor unimportant ● Fairly unimportant ● Very unimportant ● Don't know / not sure
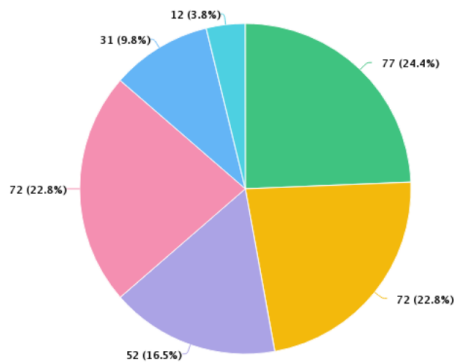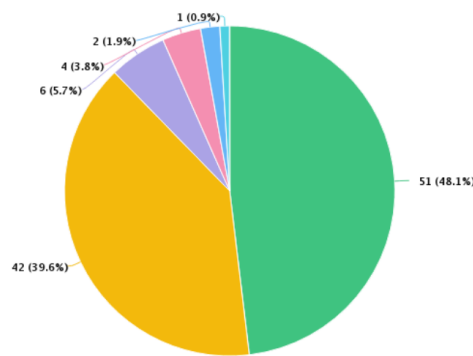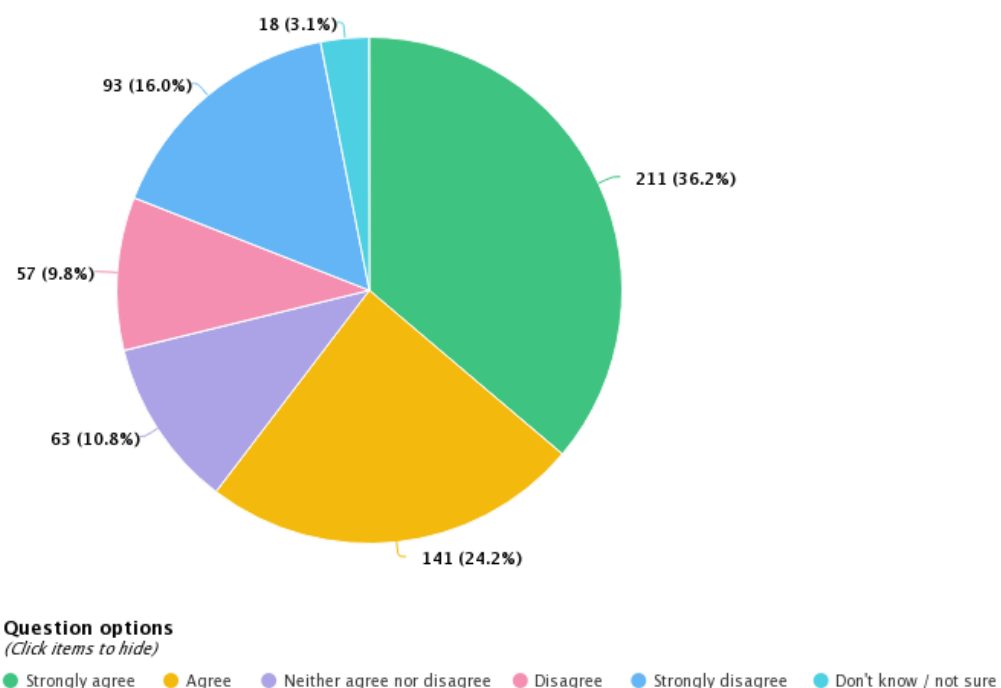

Parents

Staff and Pupils
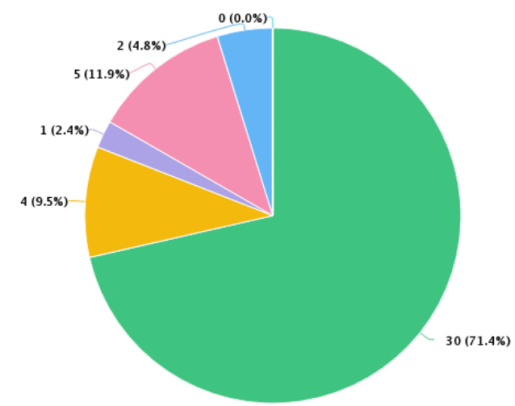
Protected Groups

As with the previous section, school staff and pupils and protected groups mostly agree that this section of the guidance is helpful, there's a mixed response from parents with some agreeing and some disagreeing.
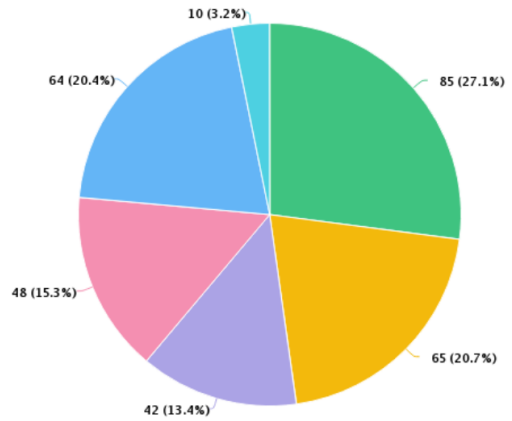
Section 4 - A whole school approach to being inclusive

Question: Do you agree or disagree with the approach suggested to schools in section 4?

18 (3.1%)
93 (16.0%)
211 (36.2%)
57 (9.8%)
63 (10.8%)
141 (24.2%)

Question options
(Click items to hide)

● Strongly agree   ● Agree   ● Neither agree nor disagree   ● Disagree   ● Strongly disagree   ● Don't know / not sure
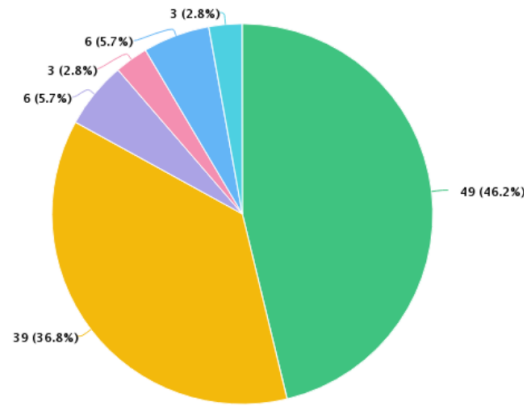
60.4% of respondents either agree or strongly agree with the approach suggested in section 4. 25.8% either disagree or strongly disagree. As well as the overall responses, response rates from certain groups (parents, school staff and pupils, and protected groups) have been analysed separately. Here's how their responses differ.

Legend: ● Very important ● Fairly Important ● Neither important nor unimportant ● Fairly unimportant ● Very unimportant ● Don't know / not sure

Parents

- 85 (27.1%)
- 65 (20.7%)
- 42 (13.4%)
- 48 (15.3%)
- 64 (20.4%)
- 10 (3.2%)

Staff and Pupils

- 49 (46.2%)
- 39 (36.8%)
- 6 (5.7%)
- 3 (2.8%)
- 6 (5.7%)
- 3 (2.8%)

Protected Groups

- 30 (71.4%)
- 4 (9.5%)
- 1 (2.4%)
- 5 (11.9%)
- 2 (4.8%)
- 0 (0.0%)
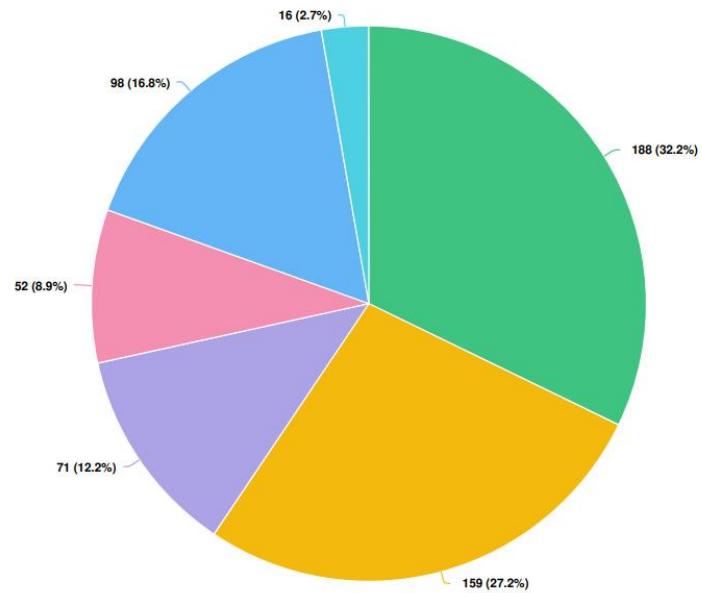
As with the previous section, whilst school staff and pupils and protected groups mostly agree with the approach suggested in section 4, there's a mixed response from parents with some agreeing and some disagreeing.

Section 5 - Supporting the individual trans, non-binary or gender exploring child or young person.

Question: Do you agree or disagree with the approach suggested in this section?

16 (2.7%)

98 (16.8%)

188 (32.2%)

52 (8.9%)

71 (12.2%)

159 (27.2%)

Question options

● Strongly agree ● Agree ● Neither agree nor disagree ● Disagree ● Strongly disagree

● Don't know / not sure

The majority of respondents (59.4%) either agree or strongly agree with the approach suggested in this section. Whilst 25.7% either strongly disagree or disagree. As well as the overall responses, response rates from certain groups (parents, school staff and pupils, and protected groups) have been analysed separately. Here's how their responses differ.

- Very important
- Fairly Important
- Neither important nor unimportant
- Fairly unimportant
- Very unimportant
- Don't know / not sure

Parents

Very important: 79 (25.2%)
Fairly Important: 69 (22.0%)
Neither important nor unimportant: 48 (15.3%)
Fairly unimportant: 34 (10.8%)
Very unimportant: 74 (23.6%)
Don't know / not sure: 10 (3.2%)

Staff and Pupils

Very important: 49 (46.2%)
Fairly Important: 39 (36.8%)
Neither important nor unimportant: 6 (5.7%)
Fairly unimportant: 3 (2.8%)
Very unimportant: 6 (5.7%)
Don't know / not sure: 3 (2.8%)

Protected Groups

Very important: 44 (41.1%)
Fairly Important: 44 (41.1%)
Neither important nor unimportant: 7 (6.5%)
Fairly unimportant: 4 (3.7%)
Very unimportant: 6 (5.6%)
Don't know / not sure: 2 (1.9%)

As with the previous section, whilst school staff and pupils and protected groups mostly agree with the approach suggested in this section, there's a mixed response from parents with some agreeing and some disagreeing.

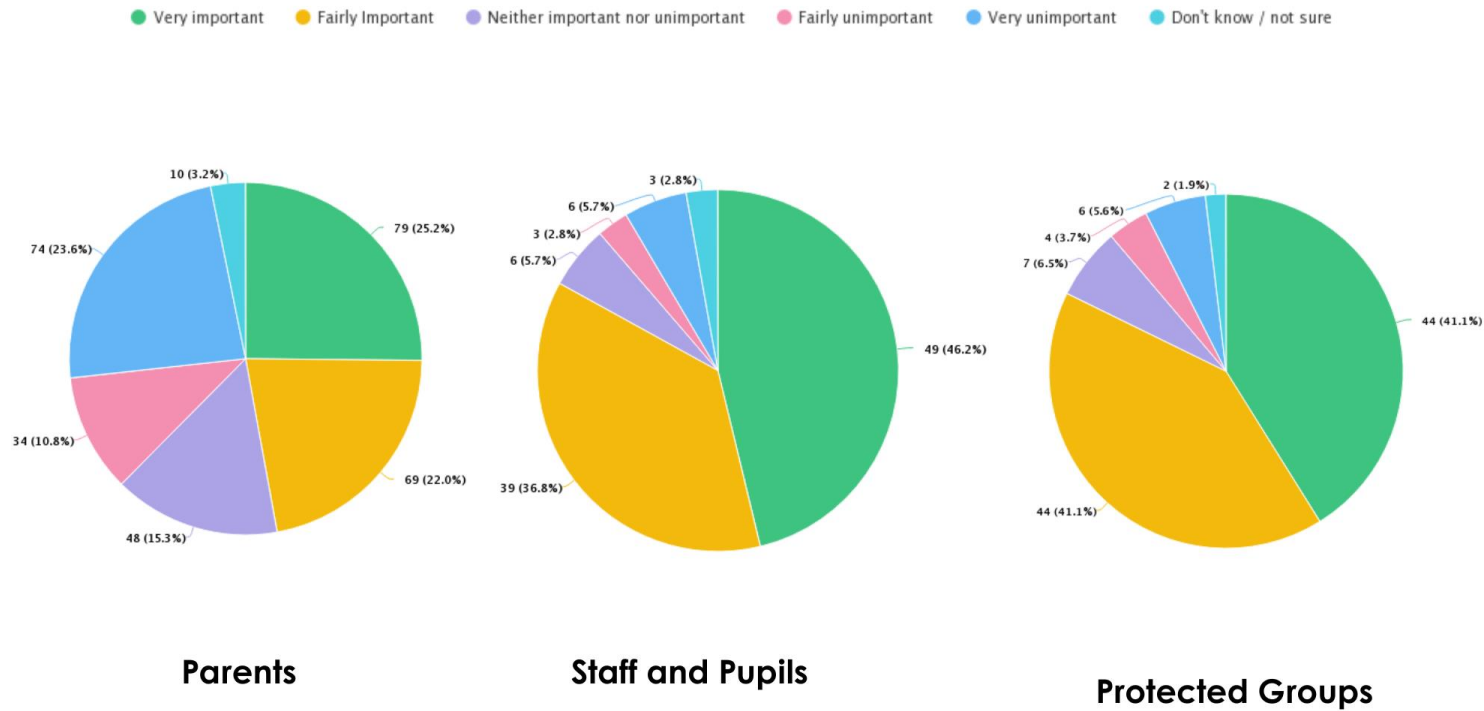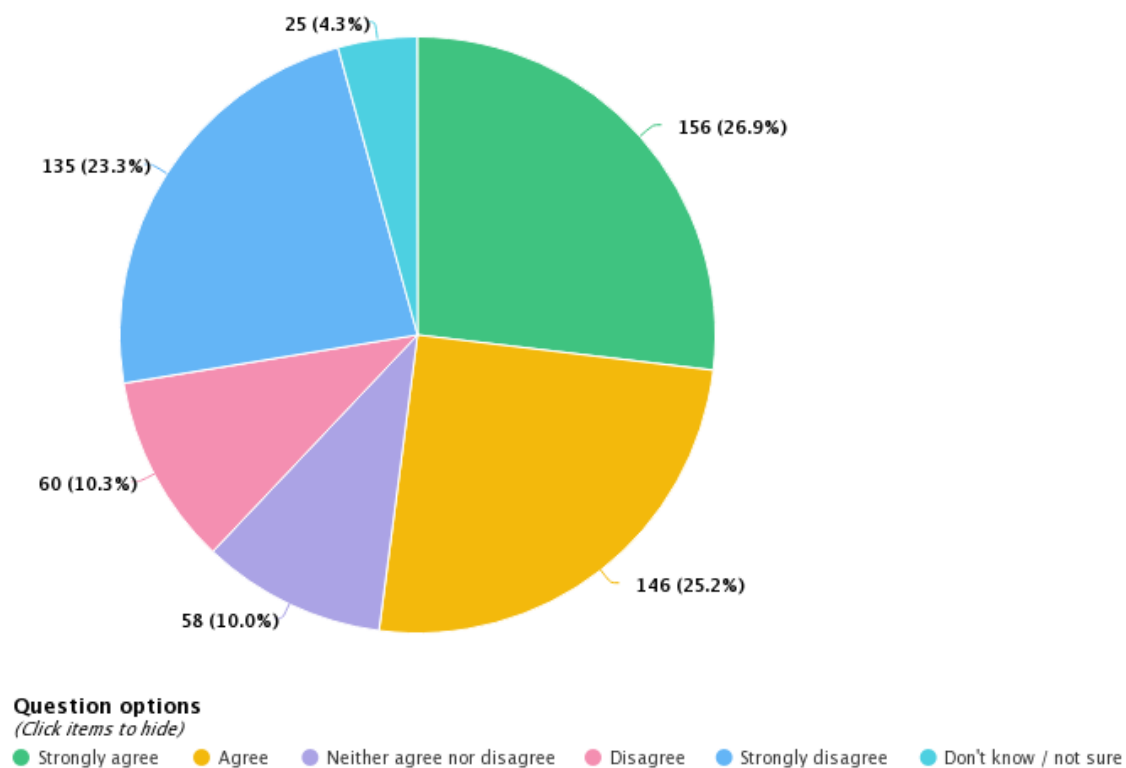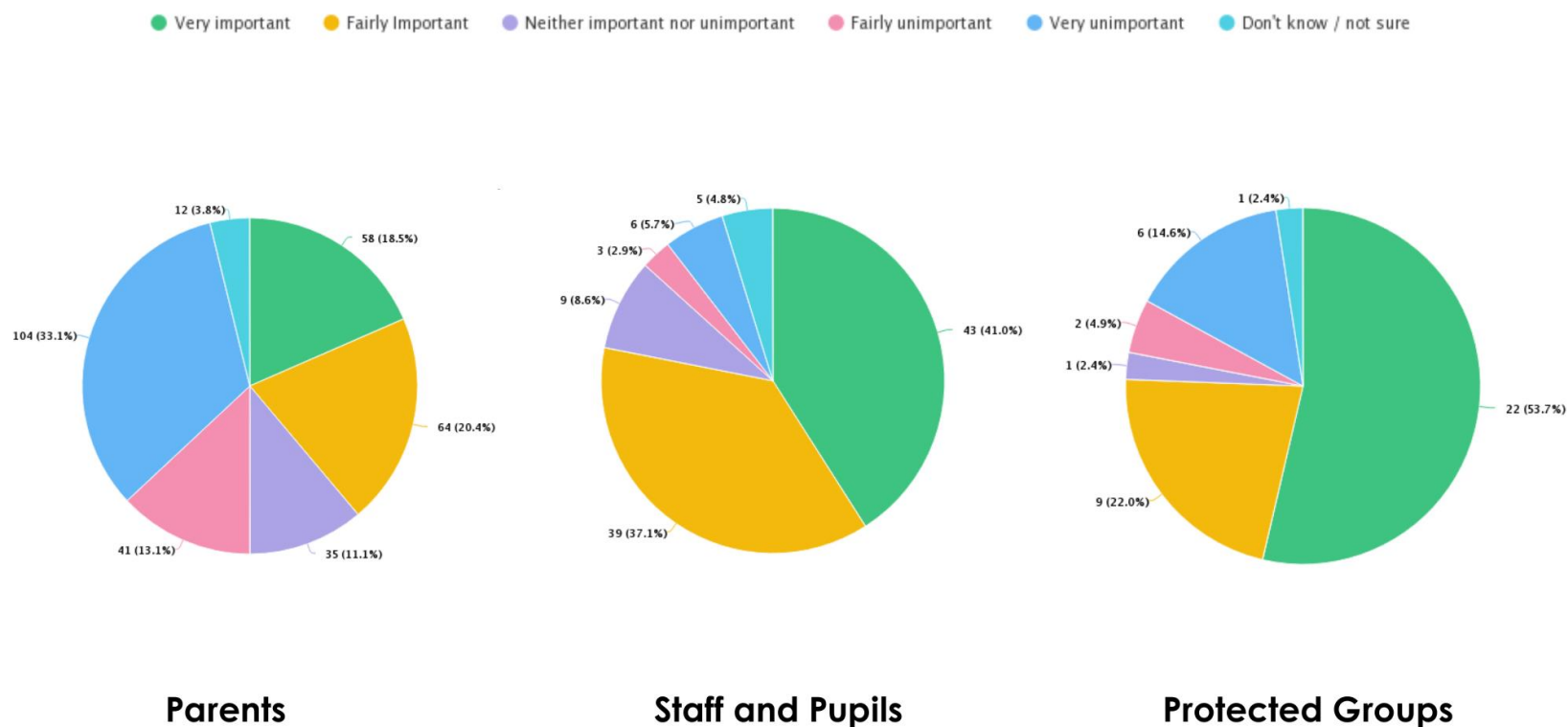**Section 6 - Supporting trans, non-binary and gender exploring children and young people with concerns**

Question: Do you agree or disagree with the approach suggested to schools in section 6?

25 (4.3%)
156 (26.9%)
135 (23.3%)
60 (10.3%)
146 (25.2%)
58 (10.0%)

Question options
(Click items to hide)

● Strongly agree ● Agree ● Neither agree nor disagree ● Disagree ● Strongly disagree ● Don't know / not sure

Just over half, 52.1% of respondents either agree or strongly agree with the approach suggested in section 6. 33.6% either disagree or strongly disagree. 23.3% is the highest proportion of strongly disagree responses seen in this survey. As well as the overall responses, response rates from certain groups (parents, school staff and pupils, and protected groups) have been analysed separately. Here's how their responses differ.

Legend: ● Very important ● Fairly Important ● Neither important nor unimportant ● Fairly unimportant ● Very unimportant ● Don't know / not sure

Parents

- 58 (18.5%)
- 64 (20.4%)
- 35 (11.1%)
- 41 (13.1%)
- 104 (33.1%)
- 12 (3.8%)

Staff and Pupils

- 43 (41.0%)
- 39 (37.1%)
- 9 (8.6%)
- 3 (2.9%)
- 6 (5.7%)
- 5 (4.8%)

Protected Groups

- 22 (53.7%)
- 9 (22.0%)
- 1 (2.4%)
- 2 (4.9%)
- 6 (14.6%)
- 1 (2.4%)

As with the previous section, whilst the majority of school staff and pupils and protected groups agree with the approach suggested to schools in section 6, there's a mixed response from parents with some agreeing but most disagreeing.
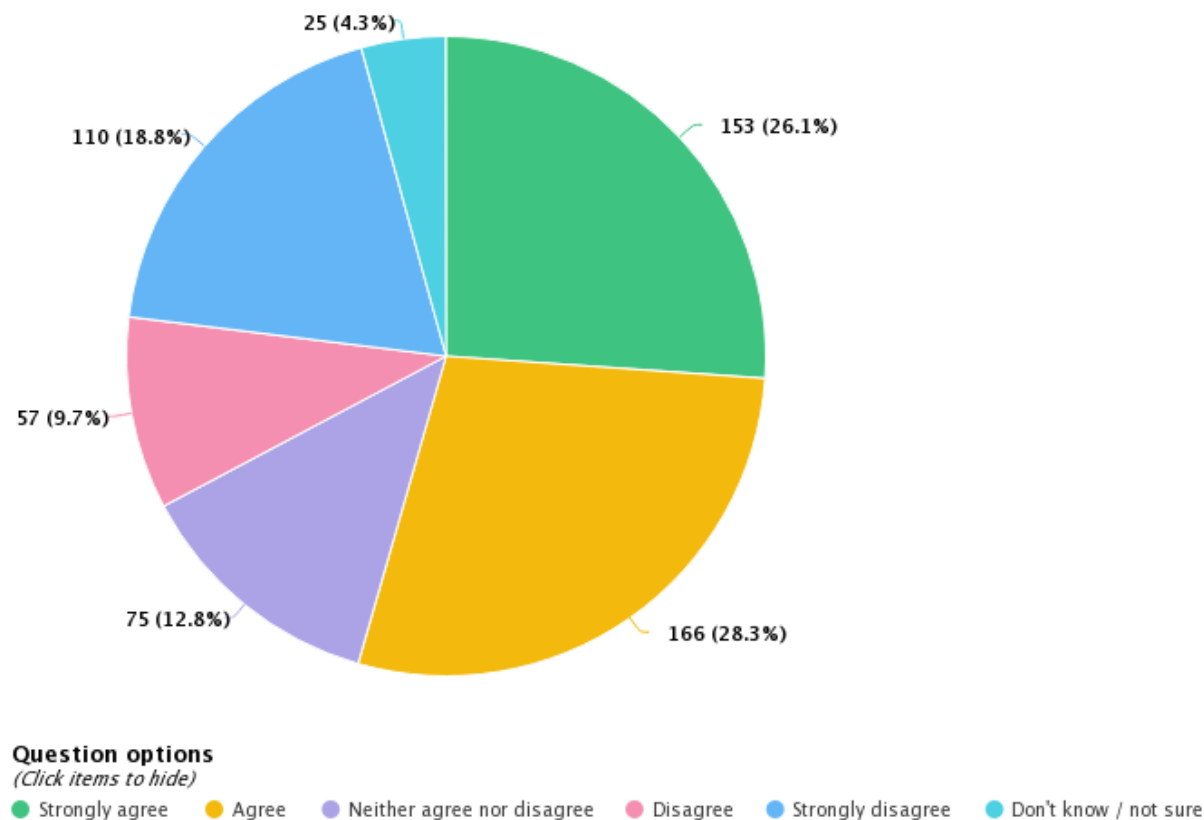
Sections 7 and 8 - Providing help and support

Question: Do you have any comments on sections 7 and 8 of the Toolkit?

There were 161 comments in response to this question. All comments have been analysed and this analysis can be seen in the next section.
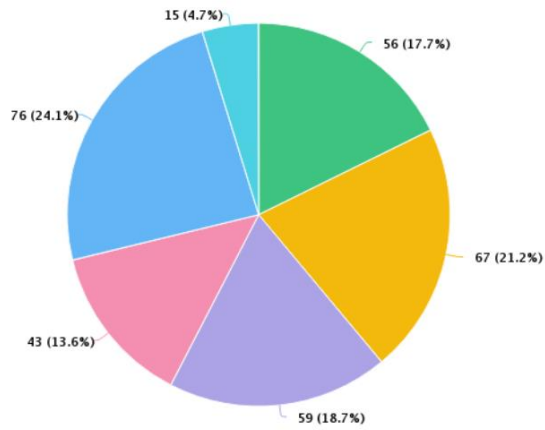
The Toolkit Overall

Question: Do you agree or disagree the Trans Inclusion Toolkit provides clear and useful guidance to schools on supporting trans and gender exploring children and young people?

25 (4.3%)

153 (26.1%)

110 (18.8%)

57 (9.7%)

75 (12.8%)

166 (28.3%)

Question options
(Click items to hide)

● Strongly agree ● Agree ● Neither agree nor disagree ● Disagree ● Strongly disagree ● Don't know / not sure
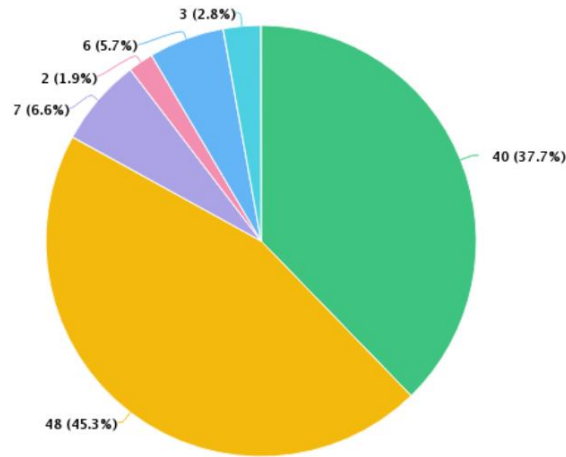
54.4% of respondents either strongly agree or agree that the Trans Inclusion Toolkit provides clear and useful guidance to schools on supporting trans and gender exploring children and young people. 28.5% either disagree or strongly disagree. As well as the overall responses, response rates from certain groups (parents, school staff and pupils, and protected groups) have been analysed separately. Here's how their responses differ.
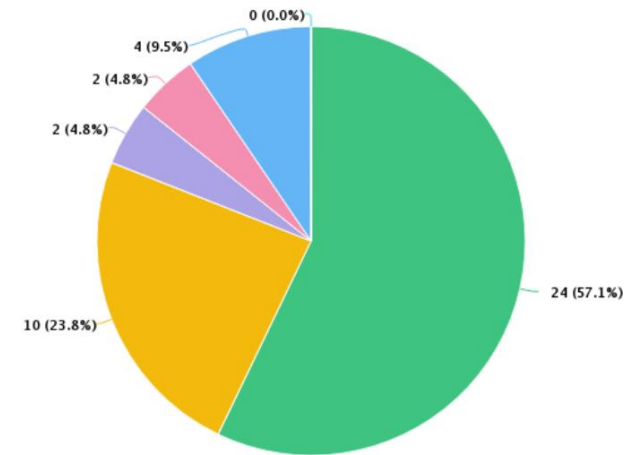
Legend: Very important · Fairly Important · Neither important nor unimportant · Fairly unimportant · Very unimportant · Don't know / not sure

Parents

- 56 (17.7%)
- 67 (21.2%)
- 59 (18.7%)
- 43 (13.6%)
- 76 (24.1%)
- 15 (4.7%)

Staff and Pupils

- 40 (37.7%)
- 48 (45.3%)
- 7 (6.6%)
- 2 (1.9%)
- 6 (5.7%)
- 3 (2.8%)

Protected Groups

- 24 (57.1%)
- 10 (23.8%)
- 2 (4.8%)
- 2 (4.8%)
- 4 (9.5%)
- 0 (0.0%)
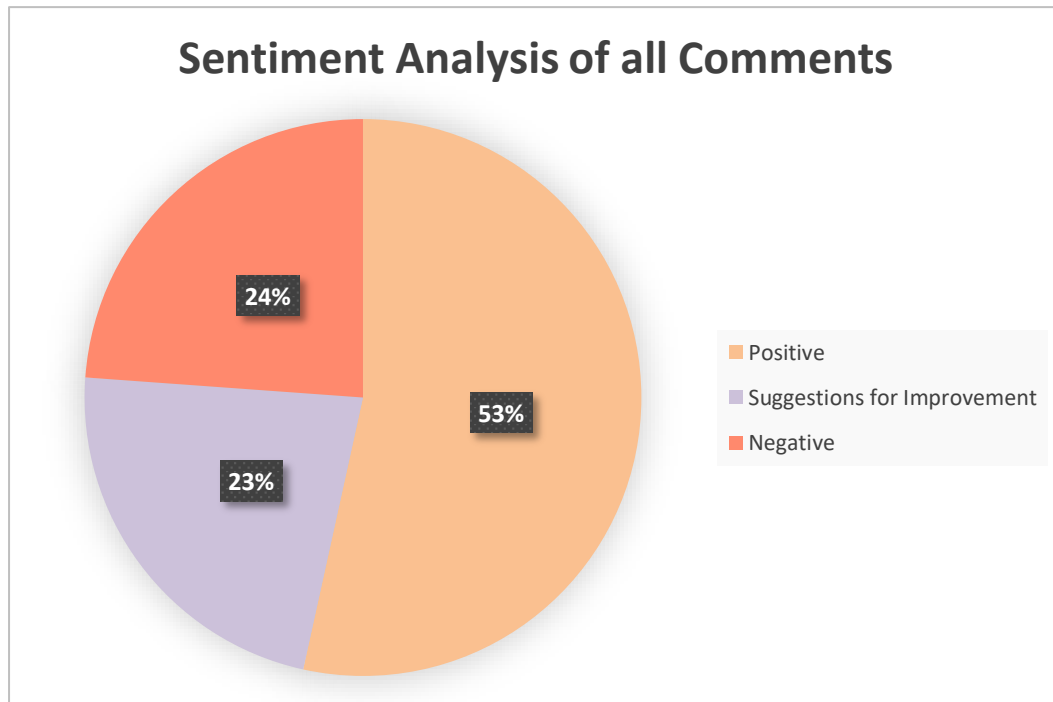
As with the previous section, whilst the majority of school staff and pupils and protected groups agree that the trans toolkit overall provides useful guidance to schools, there's a mixed response from parents with some agreeing and some disagreeing.

Comment Analysis

Respondents to the online survey had the opportunity to comment on the contents of the toolkit as a whole and on individual sections. The comments have been analysed as follows.
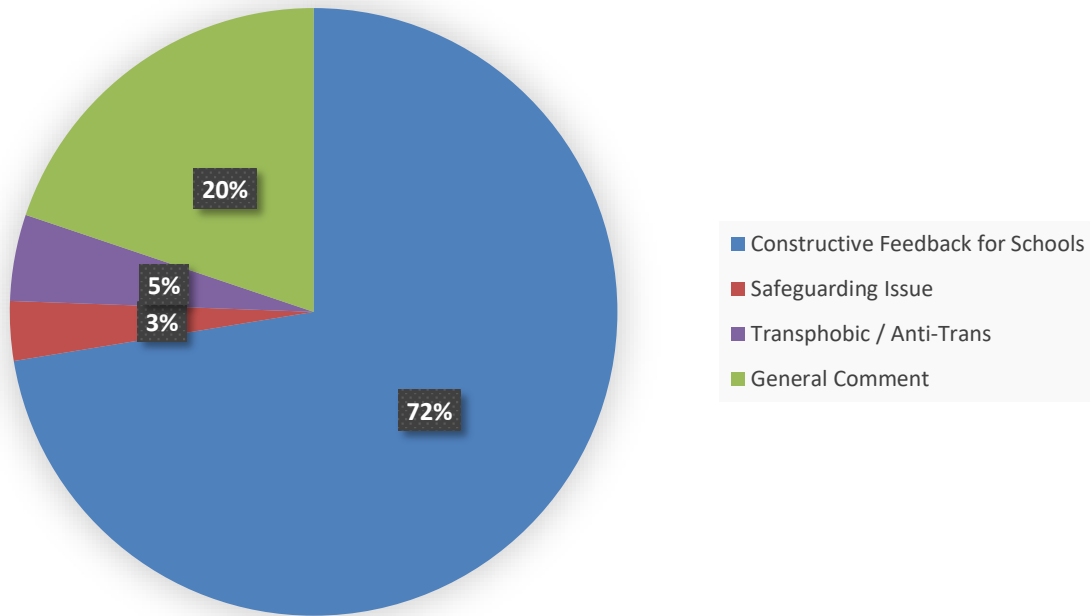

Sentiment	Number of comments
Positive	186

Suggestions for Improvement	79
Negative	83
Total Comments:	**348**

- 186/348 or 53% of all comments were considered "Positive" or supportive of the toolkit.
- 79/348 or 23% of all comments were considered "Suggestions for Improvement" or supportive of the toolkit but with suggested amendments.
- 83/348 or 24% of all comments were considered "Negative" or not supportive of the toolkit.

The comments have been categorised in the following ways:

Thematic Analysis of all Comments

- Constructive Feedback for Schools
- Safeguarding Issue
- Transphobic / Anti-Trans
- General Comment

72%
20%
5%
3%

Theme	No. of Comments
Constructive Feedback for Schools	252
Safeguarding Issue	11
Transphobic / Anti-Trans	16

General Comment	69
Total Comments:	**348**

- 252/348 or 72% of all comments were considered as "Constructive Feedback for Schools"
- 11/348 or 3% of all comments were considered as a "Safeguarding Issue"
- 16/348 or 5% of all comments were considered as "Transphobic / Anti-Trans"
- 69/348 or 20% of all comments were considered as a "General Comment"

Comments were also reviewed by key stakeholder groups including those from school staff and pupils, parents and from protected groups. They have been analysed as follows.

# Sentiment Analysis of Comments from Pupils and Staff
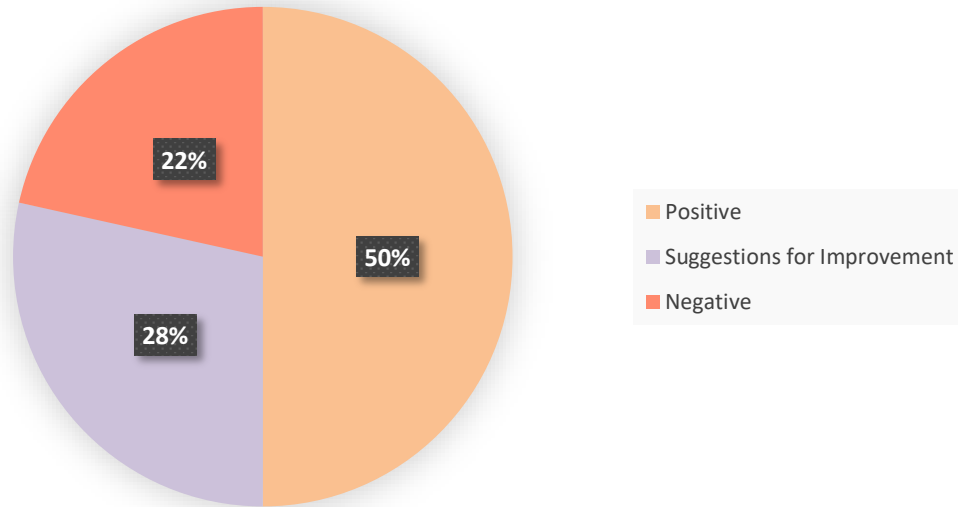
Sentiment	Number of comments
Positive	72
Suggestions for Improvement	41
Negative	31

Total Comments: 144

- 72/144 or 50% of comments made by Staff and Pupils were considered "Positive" or supportive of the toolkit.
- 41/144 or 28% of comments made by Staff and Pupils were considered "Suggestions for Improvement" or supportive of the toolkit but with suggested amendments.
- 31/144 or 22% of comments made by Staff and Pupils were considered "Negative" or not supportive of the toolkit.

Sentiment Analysis of Comments from Parents

Pie chart legend:
- Positive — 33%
- Suggestions for Improvement — 15%
- Negative — 52%
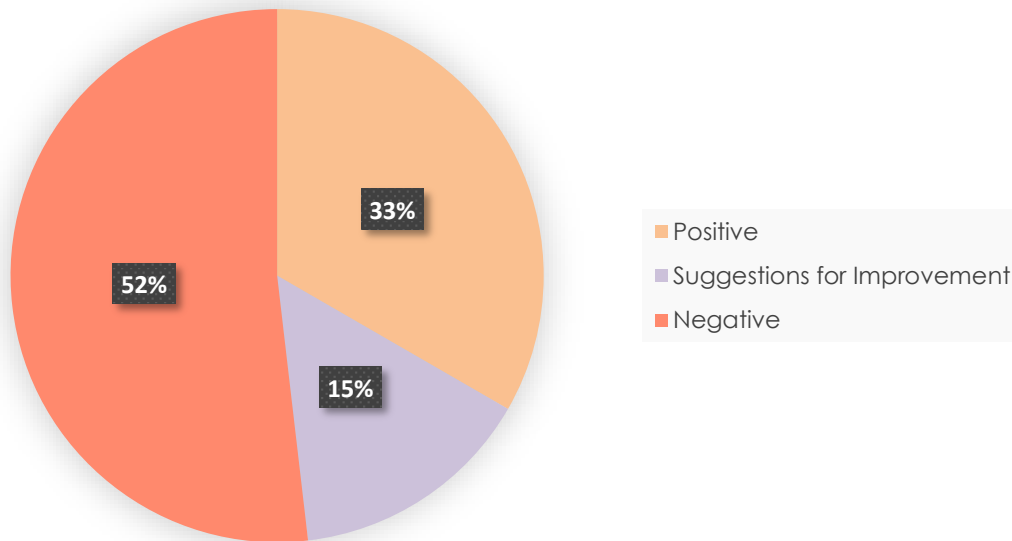
Sentiment	Number of comments
Positive	18
Suggestions for Improvement	8
Negative	28
Total Comments:	**54**

- 18/54 or 33% of comments made by Parents were considered "Positive" or supportive of the toolkit.
- 8/54 or 15% of comments made by Parents were considered "Suggestions for Improvement" or supportive of the toolkit with some suggested amendents.
- 28/54 or 52% of comments made by Parents were considered "Negative" or not supportive of the toolkit.

Sentiment Analysis of Comments from Protected Groups

Legend:
- Positive — 64%
- Suggestions for Improvement — 20%
- Negative — 16%
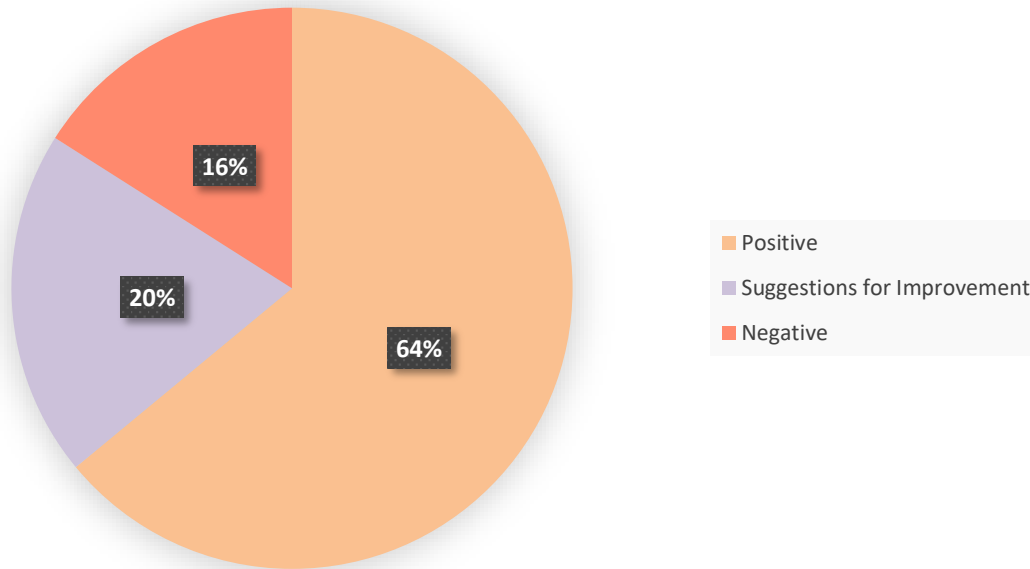
Sentiment	Number of comments
Positive	96
Suggestions for Improvement	30

Negative	24
Total Comments:	**150**

- 96/150 or 64% of comments made by Protected Groups were considered "Positive" or supportive of the toolkit.
- 30/150 or 20% of comments made by Protected Groups were considered "Suggestions for Improvement" or supportive of the toolkit with some suggested amendments.
- 24/150 or 16% of comments made by Protected Groups were considered "Negative" or not supportive of the toolkit.

Written Responses

The Council received nine written responses to the consultation, all of which were sent to the consultation mailbox. Some respondents stated that they had also completed the online survey but had further comments to make.

Of the nine respondents, four are supportive of or in favour of some elements of the toolkit but have concerns about safeguarding, two are against the toolkit being adopted by the local authority and schools, one is awaiting national guidance and two feel that the toolkit needs further consideration of other resources in order to make it more balanced.

All of the written responses have been shared with the relevant officers for consideration as some are very detailed.

Face to face engagement feedback

School Council Network Meeting

On Friday 3rd February the Vale Youth Service Participation Team facilitated a termly school council network meeting, which bought together pupils from across seven secondary schools in the Vale of Glamorgan.

The meeting was attended by Cllr Rhiannon Birch and Cllr Ewan Goodjohn, David Davies, Jason Redrup and Martin Dacey.

During the meeting the Draft Transgender Inclusion Toolkit was shared with pupils and they were provided with an opportunity to give their feedback as well ask questions.

37 pupils attended from all Vale secondary schools.

All pupils in attendance of the school council network were in support of the Draft Transgender Inclusion Toolkit, the following comments were raised during the discussion process.

When asked about developing understanding of trans, non-binary and gender exploring children and young people one pupil raised the comment that the toolkit didn't address safe binding.

When asked about the legal context and ESTYN framework for a whole-school community to welcome trans inclusion, pupils specifically raised the questions on how the Vale of Glamorgan would enforce the guidance. Some comments raised the point that clear policies were needed and that schools needed to be held to account, specifically around bullying issues.

When asked about a whole-school approach to being inclusive, pupils gave the following feedback:

- Pupils need to be supported in completing the consultation, specifically those in younger years where they may not feel as comfortable giving their feedback.
- Pupils suggested that there would be benefits in facilitating focus group discussions as some felt that we live in a transphobic society.

- Pupils also provided suggestions of including more awareness needed to be taught into schools. That LGBTQ+ rights should be included into the curriculum. PSE drop down days don't work on this issue and more needs to be done to embed this into school life. More needs to be discussed on trans rights.
- Pupils provided examples whereby in their schools LGBTQ+ groups exists, but that these support groups don't really provide pupils with the opportunity to learn and understand more on the subject. Pupils suggested that teachers need training on the topic giving specific examples of challenging trans-phobic and homo-phobic language from pupils. Additional comments were made from pupils that reflected the negative effects of the wellbeing of pupils in response to trans-phobic and homo-phobic language. Pupils in attendance agreed that teachers need much more support and training.

When asked about supporting trans, non-binary and gender exploring children and young people with concerns, one pupil gave the following feedback that non-binary changing rooms need to be implemented into schools.

Due to the timings of the school council network meeting the discussion concluded there but pupils were encouraged to take the toolkit away alongside the questions to complete the consultation within their school settings in their own time. Pupils were also encouraged to get back in to touch should they needed more support to complete the consultation.

Vale Youth Action and Youth Council Meetings

The Vale Youth Service Participation team undertook consultation focus groups between the 16th of February and 14th March 2023 with young people who are members of different participation projects and interest groups. Those participating were:

- Penarth Youth Action – 16th February, 8 young people aged 13-17
- Vale Youth Council – 22nd February, 11 young people aged 12-17
- Llantwit Youth Council – 2nd March, 9 young people aged 11-16
- I AM ME (LGBTQ+ Wellbeing Support Group) – 14th March, 7 young people aged 13-16

All 35 young people who engaged in the consultation on the Draft Transgender Inclusion Toolkit were in support and agreement that there was a need to have a guidance toolkit for school staff.

When asked about section 2 of the Draft Transgender Inclusion Toolkit around developing an understanding of trans, non-binary and gender exploring children and young people, all strongly agreed with this section. Specific comments included teachers and school staff needing more training and support was given by young people, where many noted that at times school staff didn't have the knowledge and understanding to support pupils. Many young people gave specific examples that the setting up of school Pride or LGBTQ+ clubs have been pupil led initiatives.

When asked about section 3 and 4, which covered the legal context and Estyn Framework as well as a whole-school approach to being inclusive, young people agreed that having these section included in the toolkit were helpful. A number of young people stated that the guidance wasn't enough, they felt that some schools could ignore the guidance as there was no way of holding schools to account for not doing enough to support trans, non-binary and gender exploring pupils. Some young people stated that actual school policies needed to be written to support pupils and that there should be a reporting system in place to hold schools to account. One young person asked specifically how faith schools would adopt the guidance and stated that there was not enough information provided in the guidance about this. In addition they feel it could be clearer what the legal repercussions would be around not meeting legal requirements.

When asked about section 5, which looks at supporting trans, non-binary and gender exploring pupils, all young people agreed with this. No additional comments were made in relation to this section.

Young people were very engaged in discussion of section 6, which extended supporting trans, non-binary and gender exploring pupils with concerns. Many commented that this section of the toolkit could include case studies and have pupils' experiences included as this section doesn't go into as much detail as it could. Some had concerns around the wording 'case by case basis' as it raised earlier concerns that more specific school policies should be written to support trans, non-binary and gender exploring pupils. Other comments included that more focus needed to be to raise awareness of trans, non-binary and gender exploring issues amongst the local community in extension to a whole-school approach.

Finally, section 7 and 8 – young people agreed with including this section into the Transgender Inclusion Toolkit, no additional comments were raised about including this section.

A final concluding remark from young people whilst undertaking the consultation was that they felt the toolkit should be accompanied with an easy-to-understand document or a young person infographic.

Conclusions

Although the charts demonstrate that the majority of respondents agree with the trans inclusion toolkit and its contents overall, there are concerns from some parents about this subject and how schools approach it. Some of this could be based on misinformation or misunderstanding. It is suggested that the suggestions for amending or improving the toolkit are considered and if it is agreed and introduced clear communications regarding its purpose should be shared with schools to share with parents.