

Meeting of:	<b>Cabinet</b>
Date of Meeting:	<b>Thursday, 19 January 2023</b>
Relevant Scrutiny Committee:	Learning and Culture
Report Title:	Draft Transgender Inclusion Toolkit and Guidance Document for Schools and Other Settings
Purpose of Report:	To inform Cabinet of the review and proposed consultation of a revised Vale of Glamorgan Council Transgender toolkit for schools
Report Owner:	Cabinet Member for Education, Arts and the Welsh Language
Responsible Officer:	Paula Ham, Director of Learning and Skills
Elected Member and Officer Consultation:	<p>Officers Consulted:</p> <p>Head of Additional Learning Needs and Wellbeing</p> <p>Safeguarding Officer Learning &amp; Skills</p> <p>Operational Manager Legal Services</p> <p>Corporate Equalities Officer</p> <p>Director of Corporate Resources</p> <p>Public consultation with all required consultees and interested parties will be carried out, in accordance with the relevant legislation and statutory guidance</p>
Policy Framework:	This is a matter for Executive Decision by Cabinet

**Executive Summary:**

- The purpose of this report is to advise Cabinet of the proposal to commence a consultation on a 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.
- Subject to approval of Cabinet, the Council will be commencing a consultation on its revised Toolkit, the process, and timelines of which are referenced within this report.
- The Council will, subject to approval from Cabinet to the commencement of the consultation, withdraw the existing Toolkit.
- During the consultation period, the Council will continue to work to safeguard all groups of pupils and students and provide support on a case by case basis, requesting additional support from the Council where necessary.
- This report and the revised Toolkit will be referred to the Learning and Culture and Corporate Performance and Resources Scrutiny Committees for consideration as part of the consultation process.
- On conclusion of the consultation period, all responses will be subject to careful evaluation. The consultation responses and any proposed amendments to the Toolkit and/or Guidance will be reported back to the relevant Scrutiny Committees prior to the matter being referred back to Cabinet for further consideration and determination. An Equality Impact Assessment (Appendix B) has been completed and will be revised and updated as the consultation process progresses.

## **Recommendations**

1. That Cabinet considers this report, the draft revised Vale of Glamorgan Transgender Inclusion Toolkit and Guidance Document for Schools and Other Settings (Appendix A) and the Equality Impact Assessment (Appendix B).
2. That Cabinet authorises the Director of Learning and Skills to undertake a consultation from 23rd January, 2023 to 10th March, 2023 on the revised Transgender Inclusion Toolkit and Guidance Document for Schools and Other Settings as described in the body of this report.
3. That Cabinet refers this report to the Learning and Culture Scrutiny Committee and the Corporate Performance and Resources Scrutiny Committee for consideration as part of the proposed consultation exercise.
4. That Cabinet receive a further report upon the conclusion and evaluation of the consultation exercise and updates to the Toolkit and/or Guidance.
5. That the use of paragraph 15.14.2(ii) of the Council's Constitution (urgent decision procedure) be authorised to allow the consultation to begin on 23rd January, 2023.

## **Reasons for Recommendations**

1. To ensure that Cabinet is fully appraised of the content of the report and the revised Vale of Glamorgan Transgender Inclusion Toolkit and Guidance Document for Schools and Other Settings and relevant documents.
2. To ensure that Cabinet is aware of the views and responses of those consulted when deciding whether or not to approve the Council's revised Transgender Inclusion Toolkit and Guidance Document for Schools and Other Settings.
3. To ensure that the Learning and Skills Scrutiny Committee and the Corporate Performance and Resources Scrutiny Committee are consulted on the proposal.
4. To enable Cabinet to consider the outcome of the consultation process.
5. In order to avoid unnecessary delays in starting the consultation.

## **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 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.

- 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** The updated guidance to schools, which will be informed by the outcome of the consultation, will assist schools in taking a balanced and legally informed approach in meeting the duties owed to all pupils with protected characteristics. Trans inclusion is one part of the much wider equality agenda for schools.
- 2.2** In developing this document, the local authority is working closely with Welsh Government (WG), who are developing statutory guidance for schools in Wales. Whilst it is anticipated that WG will soon be setting out a clear policy position and will be assisting Local Authorities and schools in managing the duties owed to people with this protected characteristic, this guidance is not yet available. When published this guidance will be in the context of the wider duties owed to all pupils with a protected characteristic.
- 2.3** Our review and any subsequent implementation will be informed by the guidance and advancement of WG's review, on publication. It is unlikely that WG guidance will be completed prior to the commencement of the Council's consultation on its policy document, however, the Council will liaise with WG and will ensure, as far as is possible, that the implementation of the Council's updated Toolkit will align with WG's research, reflect current understanding and best practice, and guidance, when this is published.
- 2.4** This approach ensures the policy document is reflective of the current legal, social and political concepts and landscapes, and aligns to the Council's other policy documents which relate to the Council's Public Sector Equality Duty functions, under section 149 of the Equality Act 2010. The policy document, to be consulted on, and on publication, will relate to gender, disability, race and other protected characteristics under this Act. The Council recognises the need to ensure our equality action plans work together. As such, it should be read alongside our Strategic Equality Plan and the Strategic Equality Plan for Schools.

## Consultation

- 2.5** The Council intends to consult widely on the draft Toolkit and Guidance in order to inform the final versions for consideration by Cabinet.
- 2.6** The following sets out the illustrative timetable for undertaking this consultation exercise.

Stakeholders	Mechanism		Date
	Briefing and engagement	Formal consultation	
Elected Members	Cabinet briefing Group leader briefing Champions briefing	Cabinet Scrutiny Committees: Learning and Culture Corporate Performance and Resources	19 Jan 2023 09 Feb 2023 15 Feb 2023
Governors	(Govs support to advise)	Survey – Participate Vale	23 Jan – 10 March 2023
Headteachers	HT steering and cluster meetings	Survey – Participate Vale	23 Jan – 10 March 2023
Teachers	HT steering and cluster meetings Bespoke session with SEN	Survey – Participate Vale	23 Jan – 10 March 2023
School support staff	HT steering	Survey – Participate Vale	23 Jan – 10 March 2023
Parents/carers		Survey – Participate Vale	23 Jan – 10 March 2023
Pupils		Survey – Participate Vale	23 Jan – 10 March 2023
Partners	Briefing and recorded discussion	Invite comments in writing	23 Jan – 10 March 2023
LGBT community orgs		Invite comments in writing	23 Jan – 10 March 2023
Faith groups		Invite comments in writing	23 Jan – 10 March 2023
Relevant Unions		Invite comments in writing	23 Jan – 10 March 2023

- 2.7** The proposed list of stakeholders illustrates the collaborative approach that is being adopted to finalising the draft Toolkit and Guidance. This approach seeks to involve a range of different stakeholders, including schools, parents, pupils, and other interested parties. This is in line with the ambitions the Council has set out in its Public Participation Strategy.
- 2.8** To ensure stakeholders are able to make informed responses to the formal consultation a series of briefings and engagement sessions will also take place during the consultation period. Tailored for each stakeholder group the sessions will give the opportunity to stakeholders to discuss the draft Toolkit and Guidance with senior officers before formally responding to the consultation.
- 2.9** A range of methods will also be used during the consultation to capture feedback. A structured survey will be hosted on the Council's new Participate

Vale platform. There will also be a mechanism to enable response for those without access to the internet. The views of elected Members will be sought via discussion at Cabinet and Scrutiny Committee meetings. Other key stakeholders will be invited to make written representations.

- 2.10** The consultation will be extensively promoted using the Council's communications channels with targeted messages for key stakeholder groups.
- 2.11** During the period of the consultation the current toolkit will be removed from the public domain. However, the Council and colleagues in Learning & Skills in particular continue to owe a statutory duty to all people with protected characteristics and they will continue to support and advise our schools to ensure these duties are met in the interim.
- 2.12** Following the completion of the consultation exercise, a report outlining the feedback received will be presented to Cabinet for consideration on 27th April, 2023, to determine whether or not to approve the Council's revised Transgender Inclusion Toolkit and Guidance Document for Schools and Other Settings.

### **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:

- Generating financial savings to ensure a more efficient financial model for education in the Vale.
- Ensuring a fairer distribution of specialist resources across the Vale.

**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:

- Responding to the need to ensure that there is a well-resourced specialist provision available to pupils.
- Making best use of schools that have an environment reflective of the national mission for education in Wales and future curriculum.
- Ensuring that schools remain sustainable, reflects the needs of local communities and are equipped with the best possible learning environments.
- Delivering rigorous consultation with open communication channels and numerous opportunities for stakeholders to engage throughout the process.
- Ensuring that schools are of the right size, in the right places and serving the educational needs of their local communities as part of the school organisation 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 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 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 Council's must in making decisions have due regard to the need to:

**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** Section 11 Equality Act Sex sets out that, in connection with the protected characteristic of sex, “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** Gender Recognition Act 2004 (section 9) sets out 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 Act provides protection from direct and indirect discrimination in respect of the characteristic ‘gender reassignment’ and the same protection to the following groups:

- 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, 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:
- 5.11** Decision makers in schools must be aware of the duty to have “due regard” when making a decision or taking an action and must assess whether it 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 is 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 and 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 policies 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 General Data Protection Regulations (GDPR) in respect of all children and young people (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.
- 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** GDPR does not prevent processing or sharing of personal information, but requires that when we do so, we must have a specific and limited purpose for doing so, ensure that the data used is proportionate to that purpose and ensure

that data is stored and shared securely. Where personal data is of special category (such as medical/mental health, sexual orientation or gender identity) there are additional controls around when it can be lawfully processed. This will be allowable where there is legal duty to do so or where processing meets a substantial public interest such as safeguarding. Schedule 1, Part 2 of the Data Protection Act 2018 and also 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 10th and 11th 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, such as:
- 5.19** When making a decision or reviewing a previously made strategic decision made after the 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.

**6. Background Papers**

None.

# Trans Inclusion Schools Toolkit

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

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## 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”.<sup>1</sup> This toolkit uses the phrase “sex registered at birth” in line with the Census 2021<sup>2</sup>, 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.<sup>3</sup>

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<sup>4</sup>. 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”<sup>5</sup>.

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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<sup>1</sup> Office for National Statistics

[\(Retrieved 14.5.2020\)](https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21)

<sup>2</sup> 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>

<sup>3</sup> Office for National Statistics

[\(Retrieved 14.5.2020\)](https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21)

<sup>4</sup> <https://www.sciencedirect.com/science/article/abs/pii/S1077722918300385>

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

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.

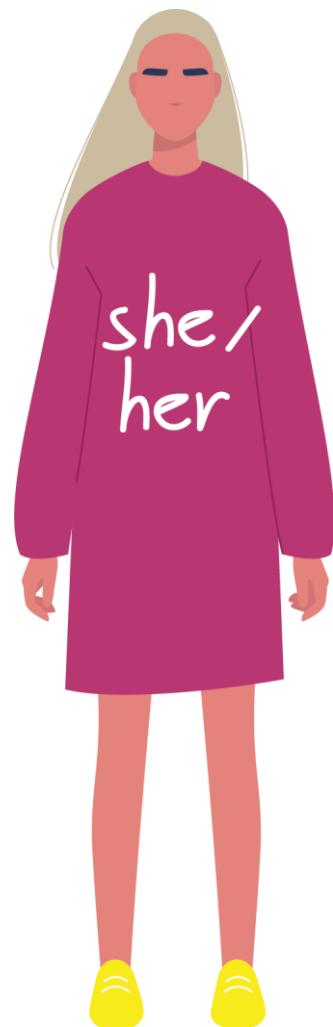
Appendix 6 can be adapted to reflect your school practice and shared with staff to reinforce your approach to supporting trans children and young people. In Appendix 7 you will find an audit and action planning tool which may provide a useful starting point to developing trans inclusive practice.

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<sup>6</sup>.

## 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.<sup>7</sup>

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<sup>8</sup>

## 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.<sup>9</sup>

## Gender expression

The World Health Organisation states that:

<sup>6</sup> NHS [Gender dysphoria - NHS \(www.nhs.uk\)](https://www.nhs.uk) (Retrieved 9.12.20)

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

<sup>8</sup> Office for National Statistics

<https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21> (Retrieved 14.5.2020)

<sup>9</sup> 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.<sup>10</sup>

A person who does not conform to societal expectations of gender may not identify as trans.<sup>11</sup>

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’.<sup>12</sup>

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<sup>13</sup>. 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”<sup>14</sup>. “Differences in sex development (DSD) is a group of rare conditions involving genes, hormones

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

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

<sup>12</sup> <https://www.ohchr.org/en/women/gender-stereotyping>, retrieved 6.7.22.

<sup>13</sup> 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)

<sup>14</sup> 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”<sup>15</sup>.

## 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.”<sup>16</sup> 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.”<sup>17</sup> 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<sup>18</sup>.

## Trans

A term for people whose “gender identity is different from the sex assigned at birth”<sup>19</sup> 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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<sup>15</sup> NHS [Differences in sex development - NHS \(www.nhs.uk\)](https://www.nhs.uk)

<sup>16</sup> Stonewall <https://www.stonewall.org.uk/help-advice/glossary-terms> (Retrieved 14.5.20)

<sup>17</sup> Stonewall <https://www.stonewall.org.uk/help-advice/glossary-terms> (Retrieved 14.5.20)

<sup>18</sup> Office for National Statistics

<https://www.ons.gov.uk/economy/environmentalaccounts/articles/whatisthedifferencebetweensexandgender/2019-02-21>  
(Retrieved 14.5.2020)

<sup>19</sup> 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.”<sup>20</sup> 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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<sup>20</sup> Stonewall <https://www.stonewall.org.uk/help-advice/glossary-terms> (Retrieved 14.5.20)

or other attributes of sex.<sup>21</sup>

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<sup>22</sup>

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.<sup>23</sup> 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”<sup>24</sup>. 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.<sup>25</sup>



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

<sup>22</sup> 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.

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

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

<sup>25</sup> 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.<sup>26</sup> 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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<sup>26</sup> 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",<sup>27</sup> 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.<sup>28</sup>

### **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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<sup>27</sup> 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.

<sup>28</sup> 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.<sup>29</sup>

### 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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<sup>29</sup> <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.<sup>30</sup>

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.<sup>31</sup>

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<sup>32</sup>

### 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*<sup>33</sup>. 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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<sup>33</sup> <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 of 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<sup>34</sup>.

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

<sup>34</sup> <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.<sup>35</sup>

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<sup>35</sup> <https://hwb.gov.wales/curriculum-for-wales/summary-of-legislation/#relationships-and-sexualityeducation>

**i** 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 (31 March), 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.<sup>36</sup> However, it is recommended that school staff only group by

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<sup>36</sup> 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.<sup>37</sup>

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 empathetic 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"<sup>38</sup> 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

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

<sup>38</sup> 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 is 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](http://youthcymru.org.uk) ([youthcymru.org.uk](mailto:mailbox@youthcymru.org.uk) / [mailbox@youthcymru.org.uk](mailto:mailbox@youthcymru.org.uk)) / 01443 827840). It runs [TransForm Cymru](#) and [Belong](#) ([Julia@youthcymru.org.uk](mailto: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](mailto: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](mailto: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.<sup>39</sup>

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<sup>40</sup>.

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.

<sup>39</sup> <https://www.legislation.gov.uk/uksi/1999/2/regulation/3/made> (Retrieved 18.10.22)

<sup>40</sup> <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”.<sup>41</sup> 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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<sup>41</sup> <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 identify 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.<sup>42</sup>

## 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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<sup>42</sup> 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](mailto: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/](http://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](tel:08000327322)
- [familiesfirstadviseline@valeofglamorgan.gov.uk](mailto:familiesfirstadviseline@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](mailto: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<sup>43</sup>; 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/](http://www.samaritans.org/how-we-can-help/schools/) and [www.papyrus-uk.org/](http://www.papyrus-uk.org/)

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<sup>43</sup> 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.<sup>44</sup>

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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<sup>44</sup> 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.<sup>45</sup> 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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<sup>45</sup> 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.”<sup>46</sup>

## 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”<sup>47</sup>.

<sup>46</sup> 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](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/623895/Preventing_and_tackling_bullying_advice.pdf) (Retrieved 26.5.20)

<sup>47</sup> 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 <i>Trans Inclusion Schools Toolkit</i> 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 <u>all</u> 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	<p>Reference provision that is being made or will be made for trans pupils and students in the Equality Policy.</p> <p>Include an equality objective (Public Sector Duty of the Equality Act 2010) which supports the needs of trans children and young people.</p> <p>Reference transphobia when talking about prejudiced forms of bullying in the anti-bullying policy.</p> <p>In the uniform policy, list uniform items which are acceptable in school, but do not list by gender.</p> <p>When groups of pupils or students are referenced or discussed ensure this includes trans pupils where appropriate.</p> <p>Confidentiality statements make clear that trans pupils and students have the right to privacy related to their gender identity.</p> <p>If there are 'out' trans pupils and students in the community, ensure their progress and achievement is monitored.</p>		
Acknowledge there could be trans people within the educational setting such as family members, staff, governors and pupils	<p>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.</p> <p>Use assemblies to celebrate a diversity of trans people and ensure pupils and students understand that transphobia is unacceptable in the school community.</p> <p>Use inclusive language such as 'all genders' / 'everyone 'to avoid making assumptions about an individual's gender identity.</p>		

<b>Area of focus</b>	<b>Suggested activities (these could be RAG rated)</b>	<b>Next steps / Actions identified</b>	<b>In place</b> ✓
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.		
<b>Area of focus</b>	<b>Suggested activities (these could be RAG rated)</b>	<b>Next steps / Actions identified</b>	<b>In place</b> ✓

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	<p>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.</p> <p>Use displays to celebrate achievements of a diversity of trans people.</p> <p>Ensure the library stocks age appropriate books about trans children, young people and adults.</p>		
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	<p>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.</p> <p>There are a range of toilets available for everyone.</p> <p>Name and gender changes are made on systems.</p>		

	Residential trips are accessible to all pupils and students and reasonable adjustments are made when necessary.		
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# Equality Impact Assessment

## Including the Welsh Language and Socio-economic Duty

**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 Transgender Toolkit for Schools

### **2. Who is responsible?**

<b>Name</b>	David Davies	<b>Job Title</b>	Head of Service Additional Learning Needs and Wellbeing
<b>Team</b>	Additional Learning Needs and Wellbeing	<b>Directorate</b>	Learning and Skills

### **3. When is the assessment being carried out?**

Date of start of assessment      1 September 2022

### **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.

### **Why do you need to put it in place?**

Schools regularly have to support pupils exploring their gender identity in both primary and secondary schools. To do this, the school community needs an understanding of the issues and the ability to signpost pupils and their families to other organisations where they may find help and support.

The current guidance has been in place for four years and has been subject to challenge. We are taking this opportunity to review the current guidance 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 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. Vale of Glamorgan Council donated £250 to Allsorts as a kind gesture of good will.

To ensure that the revised guidance is built on strong legal foundations it has been necessary to consult with legal counsel on two occasions. Firstly a legal review of a

# **Equality Impact Assessment**

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guidance tool kit devised by Brighton & Hove City Council was completed. Secondly after acting upon the initial legal advice along with the additional contributions as highlighted above a further legal review was completed, with further attention paid to legislation and procedures currently in being in Wales.

### **What are the intended outcomes of the proposal?**

The publication and implementation of guidance for Vale of Glamorgan schools on supporting trans pupils, taking into account their needs and those of their fellow pupils. This will be a tool which we can make available to pupils, parents, carers and the public.

### **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 guidance is intended to support transgender pupils in school settings and their families, whilst also recognising the needs of pupils with other protected characteristics.

### **Will the proposal affect how other organisations work? No**

### **Will the proposal affect how you deliver services? No**

### **Will the proposal impact on other policies or practices?**

This guidance will complement the following schools' policies: equality, model anti-bullying, model safeguarding...

### **Can you change the proposal so that it further promotes equality of opportunity and fosters good relations?**

It is intended upon completion of the initial review that the guidance toolkit will be subject to public consultation for an extended period. Using the feedback we get through the

# **Equality Impact Assessment**

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engaging and consulting with stakeholders, we will build our understanding of how we can further promote equality of opportunity and foster good relations.

### **How will you achieve the proposed changes?**

We will use the information gathered throughout the engagement and consultation period to inform a final version of the toolkit. We will seek approval of the guidance and then circulate it to schools for their reference.

### **Who will deliver the proposal?**

Learning and Skills will draft the guidance and schools will use it.

### **How will you know whether you have achieved the proposal's purpose?**

We will have provided 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 continues to be fit for purpose, recognising that understanding and good practice continues to evolve.

## **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?

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**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?**

<b>Yes</b>		<b>No</b>	
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### **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 will populate this section when we have gathered information from engagement and consultation.

### **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).

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## **Including the Welsh Language and Socio-economic Duty**

Please include consultation with internal networks where appropriate – GLAM and Ethnic Minority Network.

We will populate this section when we have gathered information from engagement and consultation.

### **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.

#### **Equality and Human Rights Commission's 'Is Wales Fairer 2018' Report**

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 (Stonewall Cymru, 2017).

#### **Stonewall's School Report 2017**

- New 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
- But almost half of all LGBT pupils still face bullying at school for being LGBT, and more than two in five trans young people have tried to take their own life

#### **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

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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.

### **Local data and research**

We will populate this section when we have gathered information from engagement and consultation, along with extended data research on all Wales and UK basis.

## **6. How robust is the evidence?**

### **Does it show what the impact will be (positive and negative)?**

National research shows that almost threequarters of trans young people (73%) face bullying at school. Providing guidance to schools on how to support young people will have a positive impact.

We will seek to get a better understanding of the impact from engagement and consultation.

### **What are the gaps?**

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## **Including the Welsh Language and Socio-economic Duty**

We are still developing this proposal and will continue to gather and consider evidence as a work proceeds.

### **What will you do about this?**

We are still developing this proposal and will continue to gather and consider evidence as a work proceeds.

### **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 :

SELFIE

SHRN

MY CONCERN

### **How often will you analyse and report on this?**

Bi-annually

### **Where will you publish monitoring data and reports?**

The Annual Equality Monitoring Report which is published on Vale of Glamorgan Council website.

## **7. Impact**

### **Is there an impact?**

We anticipate a positive impact.

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**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**

Positive – the guidance will help children and young people who are exploring their gender identity

### **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).

### **Gender reassignment, including gender identity**

Ensure policies explicitly include same-sex couples and use gender neutral language.

Positive – this guidance is aimed at supporting this group.

### **Marriage and civil partnership (discrimination only)**

No impact

### **Pregnancy and Maternity**

No impact

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### **Race**

No impact

### **Religion and belief**

The impact might be positive, negative or neutral depending on belief.

### **Sex**

The needs of cis gender children will need to be taken into account when considering how trans pupils are supported.

### **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 exacerbate 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

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opportunity is taken to promote the Welsh language (beyond providing services bilingually) and increase opportunities to use and learn the language in the community?

No impact. The guidance will be available in both Welsh and English.

### **Human rights**

The following articles are considered relevant:

- Article 1 Right to Equality
- Article 2 Freedom from Discrimination
- Article 3 Right to Life, Liberty, Personal Security
- Article 6 Right to Recognition as a Person before the Law
- Article 7 Right to Equality before the Law
- Article 26 Right to Education

### **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 guidance 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.**

We will gain a better understanding of this as we gather information through engagement and consultation.

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### **What can be done to lessen the risk of a negative impact?**

**Explain this for each of the relevant protected characteristics as identified above.**

We will gain a better understanding of this as we gather information through engagement and consultation.

### **Is there a need for more favourable treatment to achieve equal outcomes? (Disability only)**

We will gain a better understanding of this as we gather information through engagement and consultation.

### **Will the impact be positive, negative or neutral?**

**Explain this for each of the relevant protected characteristics as identified above.**

We will gain a better understanding of this as we gather information through engagement and consultation.

## **8. Monitoring ongoing impact**

### **Date you will monitor progress and outcomes**

Six months after we publish the guidance.

### **Measures and outcomes that you will monitor**

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The analysis of school based data sets including SHRN / SELFIE/ MY CONCERN will be completed to identify any impacts / outcomes of the guidance

**Date you will review implemented proposal and its impact**

A year after we publish the guidance.

### **9. Further action as a result of this equality impact assessment**

<b>Possible Outcomes</b>	<b>Say which applies</b>
	To be determined following engagement and consultation
<b>No major change</b>	
<b>Adjust the policy</b>	
<b>Continue the policy</b>	
<b>Stop and remove the policy</b>	

### **10. Outcomes and Actions**

**Recommend actions to senior management team**

To be determined following engagement and consultation

**Outcome following formal consideration of proposal by senior management team**

To be determined

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### **11. Important Note**

**Where you have identified impacts, you must detail this in your Cabinet report when seeking approval for your proposal.**

### **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**

<b>Approved by (name)</b>	David Davies
<b>Job Title (senior manager)</b>	Head of Additional Learning Needs and Wellbeing
<b>Date of approval</b>	23 <sup>rd</sup> December 2022
<b>Date of review</b>	23 <sup>rd</sup> June 2023