

WELSH GOVERNMENT INTEGRATED IMPACT ASSESSMENT

Title of proposal:	LGBTQ+ Action Plan
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SECTION 1. WHAT ACTION IS THE WELSH GOVERNMENT CONSIDERING AND WHY?

INTRODUCTION

Everyone has the right to be safe, to be themselves and to lead lives free from discrimination. Equality and inclusion are core values of the Welsh Government and our commitment to social justice means that we must do all that we can to protect human rights and value diversity in Wales. As we emerge from the COVID-19 crisis, these values are needed more so than ever to create a fairer, more prosperous and a more equal Wales.

The past 30 years have seen a significant strengthening of equality for lesbian, gay, bisexual, transgender and queer/questioning (LGBTQ+) people in Wales and across the UK. However, discrimination remains a reality in the lives of many LGBTQ+ people. More work is needed to address the structural inequalities that blight their life-chances, prospects and outcomes.

The Welsh Government wants every LGBTQ+ person to live as full lives as possible – to be healthy, to be happy and to be safe. We have worked with a wide range of partners to draft *an LGBTQ+ Action Plan*. This ambitious, cross-government plan sets out the concrete steps we propose to take to improve the life conditions of LGBTQ+ people, to challenge discrimination and to create a society where LGBTQ+ people are safe to live and to love authentically, openly and freely as themselves.

The draft Action Plan pays particular attention to the diversity of LGBTQ+ people's specific needs and vulnerabilities, including those experiencing intersectional discrimination. It takes specific account of trans and non-binary people, who are among the least accepted groups in society and generally experience more discrimination and violence than others in the LGBTQ+ communities. Discrimination is often multidimensional and the plan takes an intersectional approach in order to pave the way to sustainable and respectful changes in society.

In considering the recommendations issued by the UN High Commissioner for Human Rights¹ and the UN Independent Expert on Sexual Orientation and Gender Identity (IESOGI)², the draft Action Plan proposes an overarching set of aims to improve the recognition of LGBTQ+ people. It also includes a wide range of policy-specific actions relating to education, improving safety, housing, health and social care, and promoting community cohesion. This impact assessment will provide high-level considerations of the Action Plan as a whole and relevant departments may need to carry out further impact assessments to progress individual actions during the life of the plan. The impacts of the plan will be kept under review and further assessment may be carried out as needed.

¹ UN OHCHR (2015) Discrimination and violence against individuals based on their sexual orientation and gender identity: Report of the Office of the United Nations High Commissioner for Human Rights <http://daccess-ods.un.org/access.nsf/Get?Open&DS=A/HRC/29/23&Lang=E>

² UN OHCHR (2021) Independent Expert on sexual orientation and gender identity. <https://www.ohchr.org/en/issues/sexualorientationgender/pages/index.aspx>

While this is the first policy framework to focus on the specific needs and vulnerabilities of LGBTQ+ people, it sits inside a wider approach to mainstream equality and strengthen human rights protections for everyone. As such, it should be read alongside our Strategic Equality Plan, Race Equality Action Plan, Action on Disability and Gender Equality Review.

The draft plan will be published for consultation in summer 2021.

SECTION 8. CONCLUSION

8.1 How have people most likely to be affected by the proposal been involved in developing it?

The LGBTQ+ Action Plan is our first plan to focus on responding to the specific needs, diversity and vulnerabilities of our LGBTQ+ communities. For the first time, we will bring together our existing commitments to our LGBTQ+ people and will focus on achieving our ambition to creating the most LGBTQ+ inclusive country in Europe, tackling existing inequalities and challenging LGBTQ+ discrimination in the future.

The Welsh Government commissioned Stonewall Cymru in summer 2020 to carry out initial engagement with stakeholders to explore what important themes could be included in any new LGBTQ+ Action Plan for Wales. Stonewall Cymru captured over 600 LGBTQ+ people's lived experiences via a survey and a series of virtual focus groups. Some of the key messages from this engagement focused on tackling LGBTQ+ discrimination, improving safety and addressing health inequalities, particularly the health of trans people.

In November 2020, the Welsh Government established an LGBTQ+ External Reference Group to provide advice and guidance to the Welsh Government supporting the work of the LGBTQ+ policy team. In January 2021, a smaller Independent LGBTQ+ Expert Panel was also established to build on Stonewall Cymru's initial stakeholder engagement and provide strategic advice on advancing LGBTQ+ equality in Wales.

The Welsh Government also commissioned Stonewall Cymru to carry out further stakeholder engagement sessions to support the Independent Expert Panel's consider the intersectional experiences of LGBTQ+ people. The arrangements included virtual roundtable focus groups (representing LGBTQ+ young people, older people, disabled people and people from Black, Asian and minority ethnic communities) and some additional discussions with other organisations including the Wales TUC, WEN Wales and LGBT Helpline Cymru.

The Panel issued 61 recommendations and presented their report to the then Deputy Minister and Chief Whip at the end of March 2021. The report included a set of overarching recommendations focusing on the incorporation of human rights into domestic law, strategic coordination and integration of plans, and training, awareness-raising and capacity building. The report also issued thematic recommendations for a broad range of policy areas, including recognition of trans and non-binary people, safety, home and communities, health and social care, education and lifelong

learning, workplace and supporting the COVID-19 response. These recommendations have formed the basis of the draft Action Plan.

The proposed consultation from July 2021 will further inform the development of the Welsh Government's LGBTQ+ Action Plan. This will assist with the fulfilment of our Public Sector Equality Duty³ (section 149 of the Equality Act 2010), and maximise the contribution to our well-being objectives and seven well-being goals through trying to tackle discrimination, advancing equality of opportunity and fostering good relations.

8.2 What are the most significant impacts, positive and negative?

People with protected characteristics under the Equality Act 2010;

- **Sexual orientation and Gender Reassignment**

The Welsh Government wants all LGBTQ+ people in Wales to live as full lives as possible – to be healthy, to be happy and to be safe. The LGBTQ+ Action Plan will act as the coordinating framework for LGBTQ+ policy development across government. It will set out the concrete steps we propose to take to improve the life conditions of LGBTQ+ people, to challenge discrimination and to create a society where LGBTQ+ people are safe to live and to love authentically, openly and freely as themselves.

The Welsh Government's position is clear: LGBTQ+ rights are human rights. Our draft LGBTQ+ Action Plan signals our commitment to respecting, protecting and fulfilling the rights of LGBTQ+ people in Wales. It is underpinned by the rights-based approach set out by the UN High Commissioner for Human Rights⁴ and the UN Independent Expert on Sexual Orientation and Gender Identity (IESOGI)⁵. It supports the progressive realisation of rights guaranteed to LGBTQ+ people by the:

- European Convention of Human Rights (ECHR)
- Universal Declaration of Human Rights (UDHR)
- International Covenant of Economic, Social and Cultural Rights (ICESCR)
- International Covenant on Civil and Political Rights (ICCPR)
- United Nations Convention on the Elimination of Discrimination against Women (CEDAW)
- United Nations Convention on the Rights of the Child (UNCRC)
- United Nations Principles for Older Persons (UNPOP).

In doing so, the plan will be a major contributor to how Welsh Government exercises its Public Sector Equality Duty function under section 149 of the Equality Act 2010. While this is the first

³ EHRC (2015) *Public Sector Equality Duty in Wales* <https://www.equalityhumanrights.com/en/advice-and-guidance/public-sector-equality-duty-wales>

⁴ UN OHCHR (2015) *Discrimination and violence against individuals based on their sexual orientation and gender identity Report of the Office of the United Nations High Commissioner for Human Rights* https://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/29/23&referer=/english/&Lang=E

⁵ UN OHCHR (2021) *Independent Expert on Sexual Orientation and Gender Identity* <https://www.ohchr.org/en/issues/sexualorientationgender/pages/index.aspx>

policy framework to focus on the specific needs and vulnerabilities of LGBTQ+ people, it forms part of a wider approach to mainstream equality and strengthen human rights protections for everyone. As such, it should be read alongside our Strategic Equality Plan, Race Equality Action Plan, Action on Disability and Gender Equality Review.

- **Age**

The initial development and drafting of the plan has considered the needs of older LGBTQ+ people and has supported their involvement in decision-making through a specific virtual roundtable discussion group. Some key messages emerging from these discussions centred on the need to improve older LGBTQ+ people's lived experiences of the health and social care settings, addressing potential trauma of conversion therapy and tackling loneliness. Therefore, a range of actions within the draft plan, particularly those relating to LGBTQ+ healthcare, support the rights-based approach laid down by the UN Principles for Older Persons and aims to ensure older LGBTQ+ people feel their dignity is protected, have their identities respected and are able to live their lives to the full.

- **Sex**

The Welsh Government has assessed the potential impacts on women's rights and, in considering provision set out in Schedule 3 of the Equality Act 2010, is of the view that support for trans people and publishing an LGBTQ+ Action Plan will not result in the erosion of the rights of women and girls. Instead, the draft LGBTQ+ Action Plan forms part of our approach to strengthen equality and human rights protections for everyone. Extending non-binary and trans-inclusive protections through the LGBTQ+ Action Plan sits in line with the obligations laid down by the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)^{6 7}.

- **Religion or Belief**

The LGBTQ+ Action Plan sets out our ambition to be the most LGBTQ+ inclusive country in Europe. This means we must pursue systemic cultural change and progress in creating an LGBTQ+ inclusive Wales. LGBTQ+ people have the right to feel safe at home, in school, in the workplace and in the wider community. This includes supporting faith communities to be inclusive of LGBTQ+ people. The LGBTQ+ Action Plan intends to take an intersectional approach and build on the existing work of faith leaders in Wales to promote LGBTQ+ inclusion and support many LGBTQ+ people to express their own faiths or beliefs.

The draft LGBTQ+ Action Plan may affect matters concerning freedoms of expression on the grounds of belief and faith. However, while the right to hold a belief is absolute, the right to manifest a religious or philosophical is a qualified one. The draft plan's interference with the latter

⁶ UN OHCHR (1979) *Articles 1 and 2 of UN CEDAW* <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

⁷ UN Committee on the Elimination of All Forms of Discrimination against Women (2010) *General Recommendation No. 28 on the core obligations of State parties under article 2 of the Convention on the Elimination of All Forms of Discrimination against Women* <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G10/472/60/PDF/G1047260.pdf?OpenElement>

may be necessary in a democratic society in the interest of public safety, health or morals, or protecting the rights and freedoms of others.

Children and their representatives

The draft LGBTQ+ Action Plan sets out a series of proposals intended to support the well-being of LGBTQ+ children and young people and the rights guaranteed to them by the UNCRC. For example:

- Developing guidance to support trans learners (Articles 2, 8 and 29)
- Improving access to safe spaces and inclusive youth support services (Articles 13 and 15)
- Improving children and young people's access to gender identity support (Articles 8 and 24); and,
- LGBTQ+ inclusive Relationships and Sexuality Education in the new curriculum (Article 29).

The initial development and drafting of the plan has also taken account of Article 12 of the UNCRC and has supported children and young people's involvement in decision-making through virtual roundtable discussion groups. A number of LGBTQ+ youth organisations were also represented in our stakeholder engagement arrangements. There will be further opportunities for children and young people to have their voices heard during the formal consultation stage of the plan. Feedback from the consultation phase will be used to in the development of a Children's Rights Impact Assessment.

Welsh speakers and Welsh language specialist groups

The consultation will be available in a number of languages, including Welsh, English, BSL and other community languages. The consultation aims to specifically seek the views of Welsh speakers and Welsh language specialist groups, and we will be working with partner organisations to invite them to consult with us. Based on their input, this will feed into specific actions and goals around Welsh Language in the Plan, though goals and actions across the many different policy areas, will impact Welsh speakers.

8.3 In light of the impacts identified, how will the proposal:

- **maximise contribution to our well-being objectives and the seven well-being goals; and/or,**

Creating a more equal Wales, where everyone has the opportunity to participate, reach their full potential and is able to contribute fully to the economy, will enable Wales to be more prosperous and innovative. The development of the LGBTQ+ Action Plan has obvious links to this goal. The plan is being developed in line with the sustainable development principle and the 'five ways of working' in section 5 of the Well-being of Future Generations Act 2015. Most importantly through involvement and collaboration; lived experience of LGBTQ+ people is central to the draft plan's content.

- **avoid, reduce or mitigate any negative impacts?**

No direct negative impacts have been anticipated as a result of publishing an LGBTQ+ Action Plan. The Plan is designed to respect, protect and fulfil LGBTQ+ rights guaranteed to them by a range of international human rights treaties. However, it is likely the LGBTQ+ Action Plan may be subject to a number of misconceptions and challenges relating to:

- a perceived roll-back or trade-off of protections for women and girls,
- a potential interference of religious freedoms and the right to manifest a belief .

While the plan focuses on the specific needs and vulnerabilities of LGBTQ+ people, it forms part of wider approach to advance equality and strengthen human rights protections for everyone. As such, it should be read alongside our Strategic Equality Plan, Race Equality Action Plan, Disability Framework and implementation of our Gender Equality Review. Consultation and stakeholder engagements arrangements will consider how best to support interested people to have their voices heard, provide reassurances and address misconceptions.

8.4 How will the impact of the proposal be monitored and evaluated as it progresses and when it concludes?

The LGBTQ+ Action Plan is intended to be a 'living' document. This will feed into the policy decisions and the implementation of its actions will be owned by different policy departments across Welsh Government. Officials working in those policy areas will provide regular updates to a centralised Equalities Team and an annual progress update will be provided to an independent group established in a new governance structure for the plan. There will also be a role for the proposed Equalities Data Unit which is expected to improve the collection and use of data and evidence. Many of the actions in the Plan also seek to improve data and evidence in order to determine whether policies are achieving the desired outcomes. Co-construction has been an important principle for the development of the Plan and including the lived experiences of people will be equally as important during its implementation. Monitoring and evaluation arrangements will be finalised as the Plan is being finalised post-consultation.