

Section 1 - Introduction

This section outlines the Vale of Glamorgan Council's commitment to equality and inclusion, guidance on how to use the toolkit and the key principles and messages in the toolkit.

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How important do you think having this guidance document and toolkit is to ensure trans and gender exploring children and young people feel safe to learn?

Neither important nor unimportant.

We do not think that an equalities framework alone is sufficient to develop a trans inclusive policy. The legal framework for the policy must foreground Welsh safeguarding legislation, Keeping Learners Safe (2022) as safeguarding must take precedence in all decisions in relation to all pupils in school. Safeguarding should be the key principle and message of the toolkit. We will address our specific concerns about safeguarding in answer to question 8.

In section 1.1 the draft states that all schools must comply with the Equality Act 2010. However, the draft should spell out more clearly that the EA does not confer a hierarchy of rights. To do this it needs to list those other protected characteristics that may be in conflict with the PC of gender reassignment. These include: sex, sexual orientation, disability, religion and belief. The draft should state clearly that the EA does not use the term 'gender identity' and it is not a protected characteristic.

The draft should make it clear that the protected characteristic of Gender Reassignment means that children must not be excluded from education or discriminated against if they express gender distress. It does not mean they should be treated as the opposite sex. Indeed, they retain protections based on their sex however they identify. The guidance fails to point this out clearly.

The toolkit falls short in defining or describing the cohort of children it is proposing to protect. This is an important omission. The group of children now presenting as gender distressed or describing themselves as trans is a very recent phenomenon. The most accurate and evidenced way of finding out about this group is to look at the number of children referred to the Tavistock GID service. Since 2014, there has been an historically unprecedented rise in children 2014 – 2015 there were 691, in 2021-2022 the figure had risen to 3585. This group is now made up of a majority of girls, of whom over 80% are same-sex attracted,¹ more than half are on the autism spectrum and a disproportionate number of looked after children.² The Cass Review's Interim Report is essential reading concerning

¹ https://www.cambridge.org/core/services/aop-cambridge-core/content/view/76A3DC54F3BD91E8D631B93397698B1A/S205646942000073Xa.pdf/sex_gender_and_gender_identity_a_reevaluation_of_the_evidence.pdf

² <https://cass.independent-review.uk/publications/interim-report/> p58

what is known and not yet known about this group of young girls. Dr Cass cautions: “It is also important to note that any data that are available do not relate to the current predominant cohort of later-presenting birth-registered female teenagers. This is because the rapid increase in this subgroup only began from around 2014-15. Since young people may not reach a settled gender expression until their mid-20s, it is too early to assess the longer-term outcomes of this group.”³

We think the draft is wrong to start from the assumption that there is a ‘trans child’ rather than a group of children with gender distress. The references in the draft for doing this are selective and will not help teachers make decisions. For instance, it says on p6, referencing Stonewall, that ‘trans young people’ have a greater risk of suicide without putting this into context. They have a similar but not greater risk of suicide to children with a range of mental health issues. We know that the group describing themselves as trans suffer a higher rate of co-morbidities including depression, eating disorders, anxiety, ASD, self-harm and trauma. This view is backed up by the Tavistock GIDS website.⁴ Inflating suicide risk is dangerous and goes against the Samaritans’ advice.

The assertion on p6 that affirmation reduces suicide risk, “this risk is significantly reduced when the young person is effectively supported” is contested. The source for this claim is written from the point of view that social affirmation is essential. (This paragraph has been lifted directly from the Brighton and Hove Trans Inclusion Toolkit). At present, there is not enough robust evidence about the long term effects of social affirmation. We do know however that socially affirming a child is likely to cement a child’s transgender belief, rather than allow time to think.⁵

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

Language related to sex and gender is subject to change and debate. This section introduces a range of definitions to support school staff to understand the approach taken by the Vale of Glamorgan Council.

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Do you agree or disagree this section helps build understanding of sex, gender and sexual orientation?

Disagree

Definitions of sex, gender and sexual orientation should be based on the Equality Act 2010. Of these three categories, only two have a legal definition, Sex (referring to male or female) and Sexual Orientation (referring to those who are sexually attracted to people of the same sex). It

³ <https://cass.independent-review.uk/interim-report/> p36

⁴ <https://gids.nhs.uk/professionals/evidence-base/>

⁵ <https://www.transgendertrend.com/gender-affirmative-affirmation-approach/>

would be helpful for the toolkit to summarise and give references to these definitions. The ONS definition of sex used here uses the activist concept of 'assigned at birth.' Sex is recorded, not assigned at birth and the ONS has already distanced itself from this definition. (see below on ONS and the trans definition)

Stonewall's definition of sexual orientation on p11 is confused, is not based on the law and should be scrapped.

The word gender has no standing in law. It is commonly understood to stand for a collection of behaviours roles and norms based on biological sex. For the purposes of the toolkit the relevant protected characteristic in the Equality Act is Gender Reassignment which protects the rights of those who transition to live as members of the opposite sex.

The definition of 'trans' on p11 is also muddled and inaccurate. It relies on an ONS publication from February 2019. However, that article was amended in March 2022 to say:

"We published this exploratory article in 2019 with the aim of explaining the differences between the terms sex and gender. The article highlights the complexities in reporting the required data for the Sustainable Development Goals (SDGs) indicators, as the terms were being used interchangeably - and therefore, it was intended for use only within the SDGs context. This article has not been updated since it was published and there are no plans to review this specific article in future. It should be noted that the government definitions included in the article are not current and do not reflect a current cross-government agreed position."⁶

We suggest you remove this definition and refer to the cohort this guidance is for by the terms used in the Cass Review, namely 'gender distressed children.'

The list of other definitions of 'trans' contains those that have no commonly accepted meaning, such as 'gender queer' and 'non-binary.' The meaningless definition of 'trans' as being 'a gender identity which we do not yet have words to describe' has no place in educational guidance.

The term 'cisgender' on p9 is an activist word and relies on a Stonewall definition, it has no commonly accepted meaning. It is a term rejected by many women's rights groups and feminists as regressive and sexist.

We do not think there is a need for a definition of 'intersex' in this toolkit as variations in sexual development have no bearing on a person's sexuality or identity. However, the definition given by the UK Intersex Association that intersex individuals are people "whose anatomy or physiology differ from contemporary cultural stereotypes of what constitute typical male and female" is misleading. We suggest a more accurate source of information on DSDs is

<https://www.dsdfamilies.org/charity>

The definition of 'transition' should include the information that puberty blockers, hormone therapy and surgeries are unevidenced and experimental treatments which carry known risks of

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

life long health problems. Teachers should be alerted to the harms of most likely medical treatment they may come across; puberty blockers, which interfere with brain and bone development.

This section should also reference the growing number of detransitioners who have found that transitioning did not address the problems that led them to take a medical pathway. Dr Cass has highlighted the need for more information about this group: “Internationally as well as nationally, longer-term follow-up data on children and young people who have been seen by gender identity services is limited, including for those who have received physical interventions; who were transferred to adult services and/or accessed private services; or who desisted, experienced regret or detransitioned.”⁷

Section 3 - Legal Context and ESTYN Framework

This section offers suggestions for how the whole school community welcomes trans inclusion. This includes governors, policy development, anti-bullying and curriculum and the need to challenge gender stereotyping and prevent and respond to sexist, homophobic, biphobic and transphobic bullying.

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Do you agree or disagree this section provides useful information for schools?

Disagree.

Single sex competitive sports are permitted under the Equality Act. This means that it is lawful to exclude for example boys from playing on a girls' team. However, the framing of the issue in the draft guidance is muddled when it says “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 lawful reason for excluding a ‘trans girl’ from a girls' team is not because of perception but because the sex of the ‘trans girl’ remains male. The reference to the PSED should include some examples where it is necessary to foster good relations between girls who wish to maintain boundaries for reasons of physical safety and privacy on the basis of their sex based rights. The exclusion would affect boys however they identify. The same rights should also be balanced for children of different faiths where mixing of the sexes in intimate spaces is not permitted.

The section on safeguarding at 3.4 is inadequate. It is stated, as elsewhere in the draft that being trans is not in itself a safeguarding issue. We disagree fundamentally with this approach. Teachers should be aware that key risk factors for children presenting as trans are: atypical neurodevelopment, mental health conditions like anxiety and depression, self-harming and suicidality, eating disorders, trauma including sexual abuse or harassment, bullying and homophobic bullying, CSE and grooming on and offline, being in care, the use of items like binders and tuckers, and the use of illegally obtained hormones. Failure to involve parents could

⁷ <https://cass.independent-review.uk/publications/interim-report/> p18

put a child in harm's way and could expose the school and teacher to professional censure. Parents and carers who know their children best should be informed. Teachers must not be expected to lie to parents about a change of name or pronoun in school. The draft raises the question of Gillick competence: "the school will have to determine whether the child is Gillick competent to make such a decision." This is a fundamental misunderstanding of the legal significance of Gillick competence. Gillick refers to medical treatments and decisions reached in medical settings. Teachers do not have the professional training to make such a judgement. Suggesting to them as the draft does is putting teachers in a professionally compromising position.⁸

Section 4 - A whole school approach to being inclusive

This section offers suggestions for how the whole school community welcomes trans inclusion. This includes governors, policy development, anti-bullying and curriculum and the need to challenge gender stereotyping and prevent and respond to sexist, homophobic, biphobic and transphobic bullying.

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Do you agree or disagree with the approach suggested to schools in section 4?

Disagree

Governors and staff need to be given the full information about the cohort of children who present as transgender. 'Trans awareness' should mean that teachers and governors are fully conversant with the Cass Interim Report, the history of the recent surge in trans identities, the role of activist organisations in promoting one version of trans inclusion, the growing number of detransitioners and the health problems they report. School leaders and governors should ensure that teachers are not encouraged to act outside of their professional competence and 'diagnose' a child as trans based on the child's testimony. All parents should be able to talk freely to staff about concerns about their children without feeling they have to endorse a 'trans' explanation for their child's presentation or behaviour.

In terms of bullying teachers should be aware of research that shows that homophobic bullying⁹ is a known indicator of a child deciding they are 'trans.'

Schools in their communications to pupils and parents do not need to adopt activist inspired language which disguises reality. All pupils will be either male or female. How a child identifies does not change their sex. Girls in particular need to be able to use sex-based language without fear of censure to describe school experiences such as sexual harassment.

The draft advocates including 'LGBTQ+' inclusion across the whole of the curriculum, not just RSE. Schools need to be clear about the acronym. Q can mean questioning, or queer which

⁸ <https://www.cqc.org.uk/guidance-providers/gps/gp-mythbusters/gp-mythbuster-8-gillick-competency-fraser-guidelines>

⁹ <https://link.springer.com/article/10.1007/s10964-017-0749-6>

means to blur boundaries, to destabilise reality, to say it doesn't matter what sex you are, your gender is the most important thing about you. The + covers any number of things such as drag, fetish, cross dressing and kink. The statutory *Curriculum for Wales – Relationships and Sexuality Education Code* does not explain these terms either.

The instruction to use gender neutral language to ensure trans inclusion prioritises one section of the school community over all the rest. Words like mum and dad, girlfriend and boyfriend are factual terms that the majority of pupils will use and understand and do not need to be replaced.

RSE should also use accurate language. It is not true to say "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." This corruption of language comes from queer theory which prioritises gender identity over biological sex. It is the opposite of inclusive and is a safeguarding red flag. It is teaching children that it is not possible to name their own or others' sex without fear of offending. It teaches girls that a male who says he is a female must be treated as such and permitted to share their intimate spaces.

Teachers should not be asked to endorse a child's personal gender identity while teaching RSE as the draft suggests here: "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." A teacher doing this would be going beyond their professional competency by validating a child's belief that they are the opposite sex.

The outside RSE resources recommended, Stonewall, The School Run and Healthy SchoolsCP all teach gender identity as fact not a belief and provide materials which are factually inaccurate.

Section 5 - Supporting trans, non-binary or gender exploring children or young people

This section sets out some general ideas for how to support children and young people including coming out, supporting parents and transition. It states clearly that anything to do with medical transition is outside of the remit of schools.

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Do you agree or disagree with the approach suggested in this section?

Disagree.

This section is based on an activist understanding of transgender instead of an educational or safeguarding approach. Parts of it are indistinguishable from the advice given by LGBT lobby groups like Allsorts.

The general principle should be a policy which applies to all children in a school and not on a case by case basis. The school should treat all pupils equally in an environment where they can learn and grow. Singling out one child or one group of children for special treatment is not fair on the rest of the school. It is not good safeguarding policy to promise to keep a trans identity private or to keep a child's sex secret from other pupils if they have moved from another school.

It is not fair on the trans identified pupil either to expect him or her to live in stealth as the opposite sex, especially as all children change in sexed ways as they grow. Parents must be informed if their child expresses a desire to change sex. It is not in a teacher's professional competency to offer to help such a child or to decide on Gillick competency.

Teachers should not be promoting or encouraging social transition. Social transition as evidenced above is most likely to cement a trans gender identity, whereas watchful waiting is known to lead to around 80% desistence with most of those desisting growing up to be gay. Teachers who socially affirm should know they are taking part in an experimental approach, which leads to children modifying their bodies to fit a belief, and becoming lifelong medical patients.

Teachers should not be coaching children as the draft suggests in scripts to explain their gender distress. School leaders and governors could face legal action if they are found to have encouraged a child to settle on a cross-sex identity at a time when they are still growing physically and psychologically. The section on medical transition in 5.3 is wholly misleading and should be rewritten so teachers are aware that puberty blockers are unevidenced and experimental, are known to be detrimental to bone and brain development and lead in 98% of cases to cross sex hormones.¹⁰

Children with additional vulnerabilities such as autism and looked after children are disproportionately among those referred to gender clinics. This section fails to mention the high correlation between autism and a trans identity. Just as a teacher should not attempt an autism diagnosis, they should not try to diagnose gender dysphoria but should be alert to the rigid thinking in children with both conditions and always refer to CAMHS or other clinicians. The link between looked after children and trans identifying has been highlighted by the Cass Interim Report. The advice given on p30 is therefore wholly inadequate. Teachers and social workers are not qualified to help a child change their name.

Signposting in 5.6 to outside agencies is taking an active intervention to help socially transition a child. The organisations listed all subscribe to the view that children expressing a trans identity should be affirmed and not to do so is transphobic.

Section 6 - Supporting trans, non-binary and gender exploring children and young people with concerns

This section covers a range of topics for schools to consider when supporting trans, non-binary and gender exploring children and young people including access to toilets, changing rooms, uniform etc. It recommends taking a case by case approach to support. This section explains that access to single sex provision such as toilets, changing rooms, residential accommodation and competitive sport refers only to trans children and young people who have taken 'steps to live in the opposite gender' and have for example changed their name, pronoun and dress.

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Do you agree or disagree with the approach suggested to schools in section 6?

¹⁰ <https://www.transgendertrend.com/current-evidence-part-2/>

Disagree.

Schools work best with clear rules that are applicable to all pupils and it is not practicable to have rules that are based on a case by case basis. Single sex facilities are legal and according to the latest guidance from the EHRC are based on biological sex.¹¹ Gender neutral toilets are by definition mixed sex and pose privacy and safety issues for girls, even with door to ceiling cubicles.¹²

Section 6.5 suggests that there is a question mark over sharing a pupil's trans identity when planning school trips. This is a safeguarding issue and parents and other pupils should always be informed if there is a possibility that a pupil of a different sex might be sharing intimate spaces with girls or boys.

The draft says that trans and non-binary pupils should be allowed to wear the uniform of the gender they identify with. A fairer and more practical approach would be to have a uniform policy including hairstyle, make-up and jewellery that is not based on sex. But section 6.6 goes on to cite Gillick as a tool a teacher can use to help decide the degree to which a child can socially transition by cross-dressing. Teachers are not doctors. It is professional overreach to suggest teachers should undertake this assessment; they could be making a significant intervention in the psychological development of a child with unforeseen consequences.

The same applies to name and pronoun changes. A child under the age of 16 may be able to change their name with parental consent. But this does not mean that that child has changed sex. While a child with gender distress must be treated kindly, other children in the school are under no obligation to use new pronouns or to treat the child as having changed sex. To ask other pupils to do so infringes on the rights to freedom of speech and belief.

Sections 7 and 8 - Providing help and support

Section 7 provides schools with relevant information for staff and Section 8 includes information about support services.

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Do you have any comments on sections 7 and 8 of the Toolkit?

Yes.

The principle of freedom of speech and belief applies to all pupils and staff in a school if a staff member presents as transgender. It is not helpful to link to Stonewall on this issue as they promote the idea that a trans identity overrides safeguarding and freedom of speech principles.

The Toolkit Overall

¹¹ <https://www.equalityhumanrights.com/en/advice-and-guidance/separate-and-single-sex-service-providers-guide-equality-act-sex-and-gender>

¹² <https://www.coventrytelegraph.net/news/coventry-news/coventry-schoolgirl-taken-hospital-after-26418069>

This toolkit is part of several guidance documents that the Council provides to schools for supporting anti-bullying and equality for the whole school community.

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Do you agree or disagree the Trans Inclusion Toolkit provides clear and useful guidance to schools on supporting trans and gender exploring children and young people?

Disagree

The toolkit takes a one-sided approach to supporting children with gender distress. It is based on trans activist beliefs that a child's expression of a trans identity should always be believed and elevated above the rights and safety of others. It is not consistent with the law or with the most reputable research on the sudden increase in children expressing a cross-sex identity. The Equality Impact Assessment in Appendix B illustrates the failure to take the law and the research into account. The following categories have not assessed the impact of the toolkit according to principles of fairness and safeguarding

Age is graded as positive because it is said to help children and young people express their gender identity. Gender identity is a belief, backed up by no evidence, that has to be taught to children for them to have any need to think about it. Children up to the age of 7 are not developmentally able to understand sex constancy, namely the idea that sex is constant and cannot be changed by a different hairstyle or clothing.¹³ This response is also inadequate as it fails to acknowledge the historically unprecedented rise in the numbers of adolescents attending the Tavistock GIDS. Until more is known about this cohort it is irresponsible to state that it is a positive good that children and young people are expressing their gender identity.

The toolkit records a positive impact on Disability. The only disability listed is autism and bizarrely the EIA calls this positive. While recognising there is a link it downplays it by saying "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." This is not the case. The link is very clear and recorded across all jurisdictions. According to GIDS "Around 35% of referred young people present with moderate to severe autistic traits."¹⁴ Those with speech or learning difficulties would find counter-intuitive pronoun use hard to understand.

The impact on Gender Reassignment and Gender Identity is also deemed positive. Again we question this as the toolkit fails to take into account the long term health problems of a medical transition. It fails to reference the growing numbers of detransitioners.

On Religion and Belief the impact is said to be "positive, negative or neutral depending on belief." This needs expanding to take into account the Forstater v CGD ruling that gender critical beliefs are protected in law.¹⁵

¹³ <https://www.transgendertrend.com/young-children/>

¹⁴ <https://adc.bmj.com/content/103/7/631>

¹⁵ <https://www.doyleclayton.co.uk/resources/news/forstater-v-cgd-europe-ors-maya-forstater-succeeds-employment-tribunal/>

The impact on Sex is wholly inadequate. “The needs of cis gender children will need to be taken into account when considering how trans pupils are supported.” The definition of the protected characteristic is biological sex, not ‘cis-gender.’ This section should have considered the impact on the rights of girls to accurate language, to single-sex spaces, facilities, sports, school positions, and prizes in schools.

There is said to be no impact on Sexual Orientation in the toolkit. This is contentious. A majority of girls attending the GIDS are same-sex attracted.¹⁶ In promoting trans inclusion the toolkit is likely to ignore the likelihood that a trans identity for many young lesbians could be a response to homophobia.

¹⁶ https://www.cambridge.org/core/services/aop-cambridge-core/content/view/76A3DC54F3BD91E8D631B93397698B1A/S205646942000073Xa.pdf/sex_gender_and_gender_identity_a_reevaluation_of_the_evidence.pdf