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**Ymateb i Ymgynghoriad / Consultation Response**

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**Background information about Estyn**

Estyn is the Office of Her Majesty's Inspectorate for Education and Training in Wales. As a Crown body, Estyn is independent of the Welsh Government.

Estyn's principal aim is to raise the standards and quality education and training in Wales. This is primarily set out in the Learning and Skills Act 2000 and the Education Act 2005. In exercising its functions, Estyn must give regard to the:

- Quality of education and training in Wales;
- Extent to which education and training meets the needs of learners;
- Educational standards achieved by education and training providers in Wales;
- Quality of leadership and management of those education and training providers;
- Spiritual, moral, social and cultural development of learners; and,
- Contribution made to the well-being of learners.

Estyn's remit includes (but is not exclusive to) nurseries and non-maintained settings, primary schools, secondary schools, independent schools, pupil referrals units, further education, adult community learning, local government education services, work-based learning, and teacher education and training.

Estyn may give advice to the Senedd Cymru on any matter connected to education and training in Wales. To achieve excellence for learners, Estyn has set three strategic objectives:

- Provide accountability to service users on the quality and standards of education and training in Wales;
- Inform the development of national policy by the Welsh Government;
- Build capacity for improvement of the education and training system in Wales.

This response is not confidential.

## Response

We welcome the opportunity to provide feedback on the Welsh Government's LGBTQ+ Action Plan and if it would be helpful, we would be happy to meet to further discuss our feedback.

### Overview

We support the general principles, goals and actions of the Welsh Government's LGBTQ+ Action Plan for Wales. We support the Welsh Government's commitment to safeguarding human rights for everyone and wanting to enable all LGBTQ+ people in Wales to live as full lives as possible and to be healthy, to be happy and to be safe.

We have some concerns about comments made in the Ministerial foreword and have highlighted these in our response to question 10.

Broadly speaking, we would recommend that the six main themes in the Action Plan are underpinned by specific prioritised actions that relate to improvement and include 'SMART' targets. We have provided more detail under the relevant questions below.

The plan could be strengthened by including 'governance for implementation' arrangements similar to those outlined in the Welsh Government's 'An Anti-Racist Wales: The Race Equality Action Plan for Wales'. This could be a positive step towards providing support, challenge, monitoring and intervention of the Action Plan. It might also be pragmatic and useful to include Estyn as observers in any governance arrangements where they specifically relate to education.

Estyn has a continued role to inspect education and training and provide advice to Welsh Ministers. Our recent thematic report (Estyn, 2020) '[Celebrating diversity and promoting inclusion: Good practice in supporting lesbian, gay, bisexual and transgender \(LGBT\) learners in schools and colleges](#)' identifies examples of positive practices that schools and colleges can build on. You may want to consider requesting Estyn undertake future thematic reviews to support the implementation of the plan.

## Consultation questions

The Action Plan has six main themes: Human Rights and Recognition; Safety; Home and Communities; Health and Social Care; Education; and the Workplace. We would like your thoughts on the proposed actions within each theme. You may want to comment on one or all of these areas.

Please use the following questions as the basis of your response. You are welcome to add additional comments or information if you wish.

### Question 1

Do you think the Action Plan will increase equality for LGBTQ+ people and what do you think the priorities should be?

The Action Plan includes many specific actions that should help to promote equality for LGBTQ+ people. In addition, where specific actions could be strengthened, we have included comments on these below.

Overall, the six main themes set out in the plan appear to suggest important areas in which action needs to be taken. However, it would be helpful if the introduction to the Action Plan set out more clearly the evidential basis that led to the decision to prioritise these areas. The report provides little context around this other than describing them as outcomes from the stakeholder engagement groups and views of the expert panel.

Equally, if the Action Plan is to have impact and successfully increase equality, there are a number of challenges that will need to be overcome to ensure its effectiveness. For example:

- Prioritising the extensive list of actions across a wide range of departments
- Linking these actions to the overarching aims
- Providing clarity around timescales, responsibilities and monitoring of impact
- Linking the actions to existing responsibilities within Welsh Government policy areas

Estyn's comments on the specific actions related to education are as follows:

- Action 47 – 'Provide strategic, comprehensive investment in professional learning and training on designing a fully LGBTQ+ inclusive curriculum. This should include delivering LGBTQ+ inclusive RSE for all'. This would benefit from explicitly indicating the age range of the curriculum that the professional learning would support, i.e., it is important that children experience positive LGBTQ+ role models from an early age.
- Action 48 – 'Ensure that training must also act to empower professionals to adequately support LGBTQ+ young people and tackle homophobic, biphobic and transphobic bullying, by embedding a rights based approach'. This would benefit from tasking leaders with sourcing the appropriate training. Our report 'Celebrating diversity and promoting inclusion' (Estyn, 2020) found that the effective addressing of LGBTQ+ bullying is the result of leaders establishing an ethos in their institution that is positive about LGBTQ+ rights. In addition, our report recognises the need to establish robust systems to identify and address issues of bullying as they arise. This Action would be improved by being explicitly linked to leadership.
- Action 50 - 'Provide statutory national trans guidance for schools and local authorities'. It would be useful for this Action to be more specific around the areas that the proposed trans guidance would cover and how it might link with other guidance in the education sector for example the Welsh Government's *Rights, respect, equality: Statutory guidance for governing bodies of maintained schools*.
- Action 51 – 'Continue to invest in hate crime prevention programmes across Wales'. It is unclear how Action 51 relates directly to education. It would be

helpful to be more explicit around the elements of hate crime prevention programmes that could be best incorporated into school and college provision.

- Action 52 – ‘Work with colleges and universities in Wales to ensure that they are LGBTQ+ inclusive environments for learners and staff, identifying and building on best practice’. Action 52 appears very broad in its scope. More detail around how this can be achieved would be beneficial. For example, highlighting which Welsh Government department or other organisation would help to provide advice to these institutions to support these sectors in identifying and sharing best practice? It would be helpful to also consider what role the proposed Commission for Tertiary Education and Research would play.

## Question 2

Do you agree with the overarching aims? What would you add or take away in relation to the overarching aims?

We agree that it is useful to provide a set of overarching aims that ‘provide a strategic and common thread which runs throughout the more specific actions that follow’ and ‘to identify the commonalities shared by actions in the plan as a whole.’

Overall, this section could be strengthened if the overarching aims linked more consistently to the main themes (policy areas) of the plan. For example, there is explicit reference to human rights and recognition in the first two actions<sup>1</sup> but no reference to improving educational or health outcomes or community cohesion for LGBTQ+ people. A more consistent approach to this might be helpful in setting out the key areas of policy from the outset and set out a clearer and more coherent vision for the plan. Similarly, a few of the actions identified here seem more appropriate as actions to be developed under the key policy areas rather than to stand as overarching aims of the plan. For example, actions 3 and 5<sup>2</sup> might be better included as a specific action under the policy areas of Workforce and Health

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<sup>1</sup> Action 1 - We will strengthen equality and human rights for LGBTQ+ people and we will seek to influence the UK Government to strengthen the protections afforded to trans and non-binary people under the law, including refugees and those seeking asylum.

Action 2 - We will ensure that the rights of LGBTQ+ people are recognised and mainstreamed across the public sector in Wales

<sup>2</sup> Action 3 - We will ensure that all public service workers understand LGBTQ+ needs, encouraging comprehensive, intersectional equalities training to be undertaken where necessary.

Action 5 - We will improve data collection, including intersectional data, to identify the discrimination and wellbeing disparities experienced by our LGBTQ+ communities.

& Social Care respectively. This would enable the plan to set out more challenging and aspirational overarching aims for these policy areas from the outset.

Action 4 identifies '*We will help to challenge heteronormative and cisnormative assumptions and will require public bodies to appropriately identify and record LGBTQ+ identities at the point of access. The needs of LGBTQ+ communities will be made visible in service design and population-level analysis; and we will encourage service design to be co-produced.*' It may be helpful to strengthen this overall aim to

include challenging negative use of terminology too, given that many instances of discrimination relate to the language/terminology that is used to refer to the LGBTQ+ community.

Overall, there is little reference to meeting the linguistic needs or preferences of LGBTQ+ people, particularly in ensuring they can access relevant services and support through the language of their choice.

### Question 3

Do you agree with the proposed actions? What would you add or take away in relation to the actions?

#### **General observations:**

The plan contains many actions that cover a broad range of Welsh Government responsibilities and many aspects of the lives of LGBTQ+ people. Overall, the plan would benefit from an initial outline prioritising actions linked to timescales. In addition, actions are not spread evenly across the different policy areas so for example, there are only three actions listed under Workplace, while there are eighteen under Home and Communities (not including multiple actions grouped within a single action). Welsh Government may wish to consider explaining the rationale for and how actions are distributed to avoid creating the impression that some policy areas are less important than others. A clear link between the overarching aims at the start of the plan and the actions listed under the different policy areas would help ensure the plan's strategic priorities are clear.

Considered individually, most actions seem appropriate and relevant to the policy area. However, they could be strengthened further in a few cases if the wording was more robust. For example, Action 27 reads 'Examine how we can provide support to faith groups...' and Action 43 reads 'Commit to review the Gender Identity pathway...' In both cases, the action would carry more weight and appear more robust if re-worded to start with 'Provide support' and 'Review' respectively, rather than examining how to do this or only committing to review.

In a few cases, as indicated in our response to Question 1, the intended meaning of the actions is not always clearly conveyed through the wording used and the action could be reworded to ensure clarity. Examples of actions that should be reworded include:

- Action 49: ‘Promote resources to help the families of LGBTQ+ young people, through Parenting. Give it time’. It is not clear what resources will be promoted or how.
- Action 54: ‘With support from Trade Unions, create a more homogenised approach to private workplace training resources for workplaces to become more LGBTQ+ inclusive’.

The lack of clear wording and intended meaning of the actions further complicate how progress towards these actions will be monitored and measured – this links to concerns above (and below) on this issue. For example, it is not clear what a more homogenised approach might mean. It may be helpful instead to develop a set of guiding principles for developing workplace training resources.

Specifically, as regards actions identified under the theme of Education, the actions regarding training and curriculum generally appear to align with recommendations for schools and colleges made in our thematic report (referenced above in the Overview section). However, a few actions lack specificity which, as noted elsewhere, will make it difficult to assess and monitor progress towards the goal, such as Action 52 (referenced in our response to Question 1).

The relevance of a few actions to this policy area are not clear. For example, Action 51 (investing in hate crime prevention programmes) might sit better under Home & Communities, where additionally it might help address intersectionality with race and faith groups. Action 53 (options for the targeted funding of research) applies equally to all policy areas and might sit better under the overarching aims.

The plan would also benefit from having more explicit actions to support the mental health and wellbeing of LGBTQ+ children and young people which we consider should be a priority. Our thematic report (referenced in the Overview section) commented in the *experience of LGBT learners in schools and colleges* section that as a result of intolerance in wider society, LGBT learners are at greater risk of depression and more likely to engage in self-harm or experience suicidal thoughts.

## Question 4

What are the key challenges that could stop the aims and actions being achieved?

We believe the key challenges centre around the following:

- The points we have made in Question 3 about how actions link to overarching aims. The aims should be relatively broad and aspirational and the actions should be specific.
- The lack of clarity of purpose for the plan as a whole and how specific (or otherwise) actions are will further impact on whether the aims and actions can be achieved. Where these are not specific enough, or where the wording may not be robust enough, this compounds issues around how progress towards achievement of actions will be monitored and evaluated.
- Lack of information as to how progress will be measured and monitored. The Welsh Government may wish to further consider the Equality and Human Rights Commission's ("EHRC") [Measurement Framework for Equality and Human Rights](#) which sets out the domains and indicators that the ECHR monitors through its Measurement Framework. This is a helpful tool that can guide the Welsh Government in developing mechanisms for measuring and monitoring. The rationale for these could then be referenced in the Action plan for clarity.

There may be resistance among certain groups to certain aspects within the plan because of sincerely held concerns about the impact of the perceived preference of the rights of some (for example trans-women) over others (cis-women).

As stated above, the plan should be underpinned by specific actions that relate to the overarching aims. These need to be drafted in a 'SMART' way for clarity, setting out how these will be monitored and have funding allocated to them, in order to increase the prospect of the aims/actions being achieved.

## Question 5

What resources (this could include funding, staff time, training, access to support or advocacy services among other things) do you think will be necessary in achieving the aims and actions outlined?

It is difficult to answer this question as the Action Plan does not adequately indicate priorities, timescales and responsibilities. A pre-requisite to considering resource allocation would be to decide upon the priority placed upon each of the actions.

However, in relation to actions to improve education around LGBTQ+ issues for children and young people, in our report, 'Celebrating diversity and promoting

inclusion' (Estyn, 2020) we highlight a lack of confidence among education staff in teaching and addressing issues related to LGBTQ+ people. The report recommends that:

“Schools and colleges should...Ensure that all staff engage in regular training in addressing discrimination and promoting diversity, including issues around LGBT people.”

And that:

“Local authorities and consortia should...Work with external partners to deliver relevant professional learning opportunities for staff in schools across primary and secondary sectors.”

It follows from these recommendations and the advice of the Independent LGBTQ+ Expert Panel that investment in professional learning for education staff to better understand how they can support LGBTQ+ learners/families should be a priority resource. This would support Welsh Government in achieving Actions 47, 48 and 52.

## Question 6

Do you feel the LGBTQ+ Action Plan adequately covers the intersection of LGBTQ+ with other protected characteristics, such as race, religion or belief, disability, age, sex, and marriage and civil partnership? If not, how can we improve this?

No. We believe that there are some shortcomings in the intersectionality of the plan. Overall, the plan needs to be strengthened to sufficiently demonstrate intersectionality with other protected characteristics, for example by providing appropriate anonymised examples or statistics from the engagement with stakeholders on intersectional experiences which were considered further by the Expert Panel.

This plan needs to demonstrate how well it links to other action plans, for example the recent Welsh Government race equality action plan. There does not appear to be any cross references to any other Welsh Government equality plans or other strategies such as the Suicide Prevention Strategy for Wales. In particular, there is no reference to how disadvantage experienced by those from the LGBTQ+ community who also have the protected characteristic of race and disability will be addressed.

We recommend the Welsh Government set out how its understanding of the ways in which protected characteristics “can interact and produce unique, and often multiple experiences and disadvantages in specific situations”<sup>3</sup> has led to the specific aims and actions.

In addition we note that there is no reference in the Action Plan to any aims or actions to address unconscious bias, which the Expert Panel report indicates would promote understanding of intersectionality. Therefore, we would recommend at the very least, that Action 3, which might be better placed under the policy areas of Workforce and Health and Social Care respectively, is amended to include reference to unconscious bias.

Also, demonstrating how the proposed Action Plan will go above and beyond the UK Government’s LGBTQ+ Action plan as recommended by the Expert Panel report would lead, in our view, to better appreciation of intersectional issues.

## Question 7

We would like to know your views on the effects that these proposals would have on the Welsh language, specifically on opportunities for people to use Welsh and on treating the Welsh language no less favourably than English.

What effects do you think there would be? How could positive effects be increased, or negative effects be mitigated?

There are only a few references within the Action Plan about its impact upon the Welsh language or how Welsh Government intends to improve the life experiences of LGBTQ+ Welsh speakers and learners. We suggest this could be strengthened to ensure equality of provision and should dovetail with the Welsh Government’s obligations under the Welsh Language Standards and its Welsh Language Strategy.

Action 18 refers to targeted intervention being needed to increase Welsh-medium support services available to LGBTQ+ people, which may potentially have a positive effect. However, from the limited information included in the Action Plan generally it is difficult to understand what effects there would be (if any) and how any positive effects could be increased or negative effects be mitigated in relation to opportunities for people to use the Welsh language or treating the Welsh language no less favourably than the English language.

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<sup>3</sup> See the Intersectionality section of the Expert Panel report.

More information (including an evidence base) is needed for all consultees to be able to meaningfully comment on this question.

## Question 8

Please also explain how you believe the proposed policy approach could be formulated or changed so as to have positive effects or increased positive effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language, and no adverse effects on opportunities for people to use the Welsh language and on treating the Welsh language no less favourably than the English language.

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## Question 9

This plan has been developed in co-construction, and discussions around language and identity have shown that the acronym LGBTQ+ should be used. This stands for lesbian, gay, bisexual, transgender and queer/questioning people, with the + representing other sexual identities. As a result we refer to LGBTQ+ people in the Plan.

What are your views on this term and is there an alternative you would prefer? Welsh speakers may wish to consider suitable terminology in both languages.

We agree that the term LGBTQ+ is widely understood and should be used. This would help to support consistency when referring to LGBTQ+ people across Wales. We believe that it is important to use the term LGBTQ+ as it includes those questioning their sexual orientation or gender identity and those who identify as variants of lesbian, gay, bisexual, transgender or queer.

We believe that Welsh speakers should be given opportunities to use Welsh terminology if they choose but note that they may feel more comfortable using the widely accepted and understood English acronym LGBTQ+ rather than the Welsh acronym.

## Question 10

We have asked a number of specific questions. If you have any related issues which we have not specifically addressed, please use this space to report them:

In the Ministerial foreword on page 1, the following statement is made “We established a gender identity service to help our trans family be their true selves”. It might be helpful to provide an explanation of what is meant by “our trans family”.

Also, the Ministerial foreword makes the following statement: ‘We became the first nation in the UK to offer PReP (Pre-Exposure Prophylaxis, an anti-HIV drug) free on the NHS’. This could be read as unintendedly implying or reinforcing a belief that HIV is a ‘gay’ or ‘LGBTQ+’ disease. While rates of HIV are disproportionately higher among members of the LGBTQ+ community, HIV is by no means confined

to this community. Anyone—regardless of sex, sexual orientation, gender identity, gender expression or other factors (such as receipt of donated blood)—can acquire HIV. It may be better to remove this sentence or set out some further context to it.

The same paragraph also contains the following sentence: 'During Covid-19 we set up a bespoke LGBTQ+ venue grant and we enabled drag artists to access our freelancer fund'. The unintended implication appears to be that “drag artists” are from the LGBTQ+ community only. This is not always the case as some drag artists are cis males so it might be helpful to modify the sentence to reflect this.

In the introduction on page 3/4 the following statement is made “This disadvantage is also further compounded when the specific needs and vulnerabilities of being LGBTQ+ intersects with other protected characteristics including age, race, gender, religion and disability”. Gender is not a protected characteristic and it might be better to replace this with 'gender reassignment and sex' which are protected characteristics.

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