

## ANNEX B:

### DRAFT LGBTQ+ ACTION PLAN - EQUALITY IMPACT ASSESSMENT

#### 1. Describe and explain the impact of the proposal on people with protected characteristics as described in the Equality Act 2010.

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 Rights<sup>1</sup> and the UN Independent Expert on Sexual Orientation and Gender Identity (IESOGI)<sup>2</sup>. It supports the progressive realisation of rights guaranteed to the LGBTQ+ people by the:

- European Convention on Human Rights and the Human Rights Act 1998
- 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 All Forms 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 Action Plan will have a significant positive impact on the lived experiences of LGBTQ+ people and all improve outcomes across a wide range of policy areas including education, health and justice. It will be a major contributor to how the Welsh Government exercises its Public Sector Equality Duty functions under section 149 of the Equality Act 2010. While this is the first 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

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<sup>1</sup> 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](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/29/23&referer=/english/&Lang=E)

<sup>2</sup> UN OHCHR (2021) *Independent Expert on Sexual Orientation and Gender Identity*  
<https://www.ohchr.org/en/issues/sexualorientationgender/pages/index.aspx>

our Strategic Equality Plan, Race Equality Action Plan, Action on Disability and Gender Equality Review.

**Record of Impacts by protected characteristic:**

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
Age (think about different age groups)	<p>Positive.</p> <p>The LGBTQ+ Action Plan sets out a broad range of policy actions across the life-course.</p> <p>The draft Children’s Rights Impact Assessment sets out consideration of impact on children and young people under 18 years old.</p> <p>The LGBTQ+ Action Plan has also considered the needs of older LGBTQ+ and sets out a range of actions (particularly those relating to LGBTQ+ healthcare) design to support the rights-based approach laid down by the UN Principles for Older Persons. It aims to ensure older LGBTQ+ people feel their dignity is protected, have their identities respected and are able to live out their lives to the full. For example, implementation of proposed actions should help to improve workforce understanding of LGBTQ+ older people’s needs and should positively impact their experiences of health and social services.</p>	<p>Until 2021, the census did not capture information on sexual orientation and gender identity.</p> <p>According to the ONS estimate figures in 2019, the proportion of the UK population aged 16 years and over identifying as heterosexual or straight decreased from 94.6% in 2018 to 93.7% in 2019. An estimated 2.7% of the UK population aged 16 years and over identified as lesbian, gay or bisexual (LGB) in 2019, an increase from 2.2% in 2018. Younger people (aged 16 to 24 years) were most likely to identify as LGB in 2019 (6.6% of all 16 to 24 year olds, an increase from 4.4% in 2018); older people (aged 65 years and over) also showed an increase in those identifying as LGB, from 0.7% to 1.0% of this age category. This information only relates to sexual orientation and not gender identity<sup>3</sup>.</p> <p>Development of the Independent Expert Panel’s Report and the plan considered the needs of older LGBTQ+ people and supported their involvement in decision-making via 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</p>	<p>Feedback from the consultation will be used to further inform development of EIA</p>

<sup>3</sup> ONS (2021) *Sexual orientation, UK: 2019*  
<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/sexuality/bulletins/sexualidentityuk/2019>

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		<p>conversion therapy and tackling loneliness. Research suggests that older LGBTQ+ people, in particular older trans and non-binary people, are more likely to experience difficulties in accessing and receiving appropriate health and social care<sup>4</sup>.</p> <p>Older trans people are more likely to have experienced a form of so-called conversion therapy<sup>5</sup>.</p>	
Disability (think about different types of disability)	<p>Positive.</p> <p>While the LGBTQ+ Action Plan is the first 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. The LGBTQ+ Action Plan sets out a range of actions intended to improve public sector understanding of LGBTQ+ issues, improve access to services and carry out further</p>	<p>Of the 108,000 respondents to the UK National LGBT Survey in 2017, 16.8% identified as disabled<sup>6</sup>.</p> <p>Development of the Independent Expert Panel’s Report and the plan considered the needs of LGBTQ+ disabled people and supported their involvement in decision-making via a specific virtual roundtable discussion group. Some key messages emerging from these discussions centred on the need to improve understanding of cumulative impact of intersecting protected characteristics and identities, to tackle stereotypes suggesting disabled people are unable to have intimate relationships, improve social inclusion of LGBTQ+ disabled people and the need to access to sexual health services. The potential impact of Covid-19 is even more marked among certain LGBTQ+</p>	Feedback from the consultation will be used to further inform development of EIA

<sup>4</sup> Willis, P. B. , Raithby, M., Dobbs, C., Evans, E., & Bishop, J-A. (2020). 'I'm going to live my life for me': trans ageing, care and older trans and gender non-conforming adults' expectations of and concerns for later life'. *Ageing and Society*, 0(0), 1-22. <https://doi.org/10.1017/S0144686X20000604>

<sup>5</sup> UK Government Equalities Office (2018) *National LGBT Survey Research Report* [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721704/LGBT-survey-research-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721704/LGBT-survey-research-report.pdf)

<sup>6</sup> UK Government Equalities Office (2018) *National LGBT Survey Research Report* [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721704/LGBT-survey-research-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721704/LGBT-survey-research-report.pdf)

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
	research into COVID-19 impact in Wales.	groups such as LGBTQ+ disabled people <sup>7</sup> .	
Gender Reassignment (the act of transitioning and Transgender people)	<p>Positive.</p> <p>The LGBTQ+ Action Plan sets out a broad range of policy measures to improve the lives of trans, non-binary and gender diverse people in Wales. This includes improving recognition of gender diverse identities, banning conversion therapy, tackling hate crime and improving access to trans-specific healthcare services.</p>	<p>6010 full Gender Recognition Certificates have been granted since the Gender Recognition Act 2004 came into force. 427 of these were granted in 2020/2021<sup>8</sup>.</p> <p>No robust data on the UK trans population exists. Tentative estimates suggests there are 200,000-500,000 trans people in the UK<sup>9</sup>.</p> <p>Figures show there has been a marked increase of recorded hate crime incidents based on diverse gender identity. There were 820 incidents in 2015/16 and in 2019/2020, there were 2540 across England and Wales. This is an increase of 32%<sup>10</sup></p> <p>Mental health issues experienced by trans people are related to the prejudice and discrimination they experience<sup>11</sup>.</p> <p>Transitioning to the gender with which the person identifies helps resolve distress and mental health issues<sup>12</sup>.</p>	Feedback from the consultation will be used to further inform development of EIA.

<sup>7</sup> LGBT Foundation. (2020). *Hidden Figures: The Impact of the Covid-19 Pandemic on LGBT Communities in the UK*. <https://s3-eu-west-1.amazonaws.com/lgbt-website-media/Files/7a01b983-b54b-4dd3-84b2-0f2ecd72be52/Hidden%2520Figures-%2520The%2520Impact%2520of%2520the%2520Covid-19%2520Pandemic%2520on%2520LGBT%2520Communities.pdf>

<sup>8</sup> UK Ministry of Justice (2021) *Official Statistics Tribunal Statistics Quarterly, January to March 2021* <https://www.gov.uk/government/statistics/tribunal-statistics-quarterly-january-to-march-2021/tribunal-statistics-quarterly-january-to-march-2021#gender-recognition-certificates>

<sup>9</sup> UK Government Equalities Office (2018) *Trans People in the UK* [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721642/GEO-LGBT-factsheet.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721642/GEO-LGBT-factsheet.pdf)

<sup>10</sup> UK Home Office (2020) *Official Statistics Hate crime, England and Wales, 2019 to 2020* <https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2019-to-2020>

<sup>11</sup> Robles, R., Fresan, A., Vega-Ramirez, H., Cruz-Islas, J., Rodriguez-Perez, V. Dominguez-Martinez and T. (2016) Removing transgender identity from the classification of mental disorders: a Mexican field study for ICD-11'. *The Lancet Psychiatry*. 3(9), 850-850 [https://doi.org/10.1016/S2215-0366\(16\)30165-1](https://doi.org/10.1016/S2215-0366(16)30165-1)

<sup>12</sup> Dhejne, C., Vlierken, R.V., Heylens, G. and Arcelus, J. (2016) 'Mental health and gender dysphoria: a review of the literature'. *International Review of Psychiatry*. 28(1). p.44-57 <http://hdl.handle.net/1854/LU-7081076>

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		<p>Despite public attitudes to transgender people being broadly positive<sup>13</sup>, it is recognised, it may be perceived that the draft LGBTQ+ Action Plan (particularly trans recognition and trans-inclusive policies) has potential to negatively impact some rights of those with other protected characteristics.</p> <p>The main thrust of concerns expressed by some people, centres on the perceived conflation of ‘sex’ and ‘gender’ in government policy and how the perceived misinterpretation of these characteristics (protected by the Equality Act 2010) could roll back protections for women and girls. Some examples of concerns already expressed and considered include fears there would be limits on access to women’s safe spaces resulting in increased risk of abuse to women, limits on freedom of expression and an erosion on the rights of women and girls.</p> <p>The Welsh Government has considered these concerns and is of the view that support for trans people and publishing an LGBTQ+ Action Plan will likely not result in the erosion of the rights of women and girls, rather it 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 will sit in line with the obligations laid down by the United Nations Convention on the Elimination of Discrimination against</p>	

<sup>13</sup> EHRC (2020) *Attitudes to transgender people*  
[https://www.equalityhumanrights.com/sites/default/files/attitudes\\_to\\_transgender\\_people.pdf](https://www.equalityhumanrights.com/sites/default/files/attitudes_to_transgender_people.pdf)

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		Women (CEDAW) <sup>14 15</sup> .The UN IESOGI supports this position also. However, consultation responses to the draft plan will be considered in further policy development.	
Pregnancy and maternity	Positive. The draft LGBTQ+ Action Plan commits to continuing support for LGBTQ+ families when accessing maternity or fertility services.	The Independent LGBTQ+ Expert Panel's report issues a recommendation for the Welsh Government to take action to ensure that maternity and fertility services are accessible and straightforward to use for LGBTQ+ people.	N/A
Race (include different ethnic minorities, Gypsies and Travellers and Migrants, Asylum seekers and Refugees)	Positive.  The LGBTQ+ Action Plan has taken account of intersecting LGBTQ+ and Black, Asian and minority ethnic communities. It should be read alongside the Race Equality Action Plan. The LGBTQ+ Action Plan sets out specific actions to improve police relations, tackle hate crime and to better support LGBTQ+ refugee and asylum seekers. Implementation of these actions will improve recognition of LGBTQ+ refugee and asylum seekers and ensure that appropriate housing and support arrangements better reflect needs – benefiting living	Of the 108,000 respondents to the UK National LGBT Survey in 2017, 92.4% identified as White, 3.4% as Mixed/Multiple ethnic groups, 1.6% Asian, 0.9% as Black <sup>16</sup> .  A small number of respondents to the National LGBT Survey (86) focused on calling on the Government to do more to support LGBT asylum seekers - to ensure that they are not turned away and sent back to countries that discriminate against LGBT people <sup>17</sup> .  Development of the Independent Expert Panel's Report and the plan considered the needs of LGBTQ+ Black, Asian and minority ethnic people and supported their involvement in decision-making via a specific virtual roundtable discussion group. Some key messages emerging	Feedback from the consultation will be used to further inform development of EIA

<sup>14</sup> UN OHCHR (1979) *Articles 1 and 2 of UN CEDAW* <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

<sup>15</sup> UN Committee on the Elimination 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>

<sup>16</sup> UK Government Equalities Office (2018) *National LGBT Survey Research Report*. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721704/LGBT-survey-research-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721704/LGBT-survey-research-report.pdf)

<sup>17</sup> UK Government Equalities Office (2018) *National LGBT Survey Research Report*. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721704/LGBT-survey-research-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721704/LGBT-survey-research-report.pdf)

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
	environments, personal security, health and mental health and access to services.	<p>from these discussions centred on the need to improve Police relations with LGBTQ+ and minority ethnic communities, improve understanding of intersecting identities, need to improve support for LGBTQ+ refugees and asylum seekers, and need to improve mental services.</p> <p>The potential impact of Covid-19 is even more marked among certain LGBTQ+ groups such as Black, Asian and minority ethnic people<sup>18</sup></p>	
Religion, belief and non-belief	<p>The LGBTQ+ Action Plan takes account of intersecting identities with regard to beliefs, faith and religious freedoms. The Plan sets out actions to improve LGBTQ+ inclusion in faith communities. A proposal to ban conversion therapy practices may curtail a qualified right to manifest a religious or philosophical belief. However, potential interference with this qualified right may be justified in a democratic society on the grounds of public safety, health or morals, or protecting the rights and freedoms of others.</p>	<p>69% of all respondents to the National LGBT Survey identified as having no religion. 17.6% identified as Christian while 1.4% were Buddhist, 0.9% as Jewish and 0.7% as Muslim<sup>19</sup>. LGBT people’s experiences of religious institutions were typically negative – feelings of being unsupported in faith schools, perceived intolerance in religious communities and experiences of conversion therapy<sup>20</sup>.</p> <p>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 is a qualified one.</p> <p>A proposal within the draft plan to ban conversion therapy practices may restrict religious freedoms and place</p>	<p>Feedback from the consultation will be used to further inform development of EIA.</p> <p>Welsh Government will continue dialogue with faith communities in Wales. A proposed action in the draft plan sets out a commitment to secure improve LGBTQ+ representation on other equality forums. This will help the consideration of intersecting identities and foster positive relations with between those who shared a particularly</p>

<sup>18</sup> Ruprecht, MM; Wang, X; Johnson, AK; et al. (2020). ‘Evidence of Social and Structural COVID-19 Disparities by Sexual Orientation, Gender Identity, and Race/Ethnicity in an Urban Environment’. *Journal of Urban Health*  
<https://link.springer.com/article/10.1007/s11524-020-00497-9>

<sup>19</sup> UK Government Equalities Office (2018) *National LGBT Survey Research Report*.  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721704/LGBT-survey-research-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721704/LGBT-survey-research-report.pdf)

<sup>20</sup> UK Government Equalities Office (2018) *National LGBT Survey Research Report*.  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721704/LGBT-survey-research-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721704/LGBT-survey-research-report.pdf)

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		<p>faith leaders at risk of prosecution. However, the Welsh Government’s position is clear - any attempts to try to change or alter a person’s sexual orientation or gender identity through ‘conversion therapy’ are wrong and wholly unacceptable. These practices can inflict severe pain and suffering on LGBTQ+ people, often resulting in long-lasting physical and psychological trauma. We want every LGBTQ+ person in Wales to feel safe and able to live authentically and openly as themselves. Therefore, the draft plan seeks to use all available powers to ban conversion therapy (taking account of and working with similar policy measures across the devolved nations) to protect LGBTQ+ people and preventing future harm, abuse and trauma being inflicted upon them. This position is supported by human rights recommendations issued by the OHCHR<sup>21</sup> and the UN IESOGI<sup>22</sup>.</p> <p>The LGBTQ+ Action Plan may also face challenges in respect of including our continuing commitment to establish LGBTQ+ inclusive Relationships and Sexuality Education in the new curriculum. The Welsh Government remains committed to ensuring every learner has the right to enjoy full access to the new curriculum. The Welsh Government has already carried out significant consultation and impact assessment on this policy proposal in the context of religious freedoms and faith. We</p>	protected characteristic with those who do not.

<sup>21</sup> 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](https://www.un.org/en/ga/search/view_doc.asp?symbol=A/HRC/29/23&referer=/english/&Lang=E)

<sup>22</sup> UN IESOGI (2020) *Practices of so-called “conversion therapy”: Report of the Independent Expert on protection against violence and discrimination based on sexual orientation and gender identity* <https://undocs.org/A/HRC/44/53>

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		<p>continue to work with a range of LGBTQ+ and faith community stakeholders to coproduce new Codes of Practice for 'Relationships and Sexuality Education' and 'Religion, Values and Ethics'.</p> <p>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 is a qualified one:</p> <p>A recent tribunal in London ruled that the claimant's gender critical beliefs amount to a philosophical belief within the meaning of the Equality Act 2010 (Forstater v CDG Europe UKEAT/0105/20/JOJ). There is concern by some that the judgement will leave marginalised groups (particularly trans people) more vulnerable to discrimination and harassment. The appeal tribunal was very clear in stating that whilst the claimant was afforded protection from discrimination in respect of her protected characteristic related to her belief, she will nonetheless remain subject to the prohibitions on discrimination and harassment that apply to everyone else. The ruling makes clear that the decision does not mean that trans people are subject to lesser rights and does not mean that people with gender critical views are free to misgender or discriminate against trans people.</p> <p>Support for trans people and publishing an LGBTQ+ Action Plan will not result in the erosion of the rights of any particular group, rather it forms part of our approach to</p>	

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		strengthen equality and human rights protections for everyone.	
Sex	No negative impacts identified. The plan does not seek to amend provisions that relate to single-sex spaces. Schedule 3 of the Equality Act 2010 already allows trans people to be excluded from single-sex services under certain circumstances <sup>23</sup> . However, such exclusion should be considered on a case-by-case basis and should only be exercised as a proportionate way of achieving a legitimate aim.	<p>Despite public attitudes to transgender people being broadly positive<sup>24</sup>, it is recognised, it may be perceived that the draft LGBTQ+ Action Plan (particularly trans recognition and trans-inclusive policies) has potential to negatively impact some rights of those with other protected characteristics.</p> <p>The main thrust of concerns expressed by some people, centres on the perceived conflation of 'sex' and 'gender' in government policy and how the perceived misinterpretation of these characteristics (protected by the Equality Act 2010) could roll back protections for women and girls. Some examples of concerns already expressed and considered include fears there would be limits on access to women's safe spaces resulting in increased risk of abuse to women, limits on freedom of expression and an erosion on the rights of women and girls.</p> <p>In respect of trans-inclusion limiting access to women's safe spaces, there is a lack of evidence around the actual experienced impacts of trans-inclusion in services<sup>25</sup>.</p> <p>The Welsh Government has identified no evidence to justify a blanket exclusion of transwomen from services or spaces and a recent legal</p>	Feedback from the consultation will be used to further inform development of EIA.

<sup>23</sup> Para. 28, Schedule 3 of Equality Act 2010 - <https://www.legislation.gov.uk/ukpga/2010/15/schedule/3>

<sup>24</sup> EHRC (2020) *Attitudes to transgender people* [https://www.equalityhumanrights.com/sites/default/files/attitudes\\_to\\_transgender\\_people.pdf](https://www.equalityhumanrights.com/sites/default/files/attitudes_to_transgender_people.pdf)

<sup>25</sup> Gottschalk, L. (2009) 'Transgendering women's space: A feminist analysis of perspectives from Australian women's services'. *Women's Studies International Forum*, 32(3): 167-178

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		<p>challenge brought in AEA v EHRC was refused permission to judicially review the guidance relating to single sex services. Evidence instead highlights the need for individual assessments and tailoring services for each individual’s needs<sup>26</sup>. Schedule 3 of the Equality Act 2010 already allows trans people to be excluded from single-sex services under certain circumstances<sup>27</sup>. However, such exclusion should be considered on a case-by-case basis and should only be exercised as a proportionate way of achieving a legitimate aim. This is supported by the view of the UN IESOGI<sup>28</sup>:</p> <p><i>“the evidence does not support the contention that legal recognition of gender identity can be seen as contrary to the struggle for equality, to the rights of women or to the rights of cis women. The Independent Expert is not persuaded by the allegation that these arguments are grounded in human rights-based approaches. They overwhelmingly appear to rely on anecdotal evidence, some of which would relate to some allegations of abuse, but most of which build on deeply discriminatory stereotypes of trans and gender-diverse persons, and overwhelmingly of trans women. This is the case, for example, of the claim that legal recognition of trans women per se threatens safe spaces, which appears to draw on stigma about predatory determinism. Statistical evidence or analysis does not support the contention that legal recognition</i></p>	

<sup>26</sup> Dunne, P. (2017) ‘(Trans)forming single gender services and communal accommodations’. *Social and Legal Studies*, 26(5).  
<sup>27</sup> Para. 28, Schedule 3 of Equality Act 2010 - <https://www.legislation.gov.uk/ukpga/2010/15/schedule/3>  
<sup>28</sup> UN IESOGI (2021) *The law of inclusion*. <https://undocs.org/A/HRC/47/27> para. 40.

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		<p><i>of trans girls represents a blanket threat to development through sports, a notion that circularly seeks to rely upon but also to justify the harmful and offensive contention that trans girls are not girls. The idea that legal recognition of the existence of trans women creates a threat of erasure of the concerns of cis women disregards the duty of the State to consider all relevant angles of intersectional analysis, including gender identity, in the formulation of policy.</i><sup>29</sup></p> <p>In considering potential concerns that trans-inclusion will result in the increased risks of abuse to women, the Welsh Government has not identified any evidence supporting the claim that transwomen are more likely than non-trans women to sexually assault other women in women-only spaces. There is a lack of evidence (legal, medical or otherwise) to support this ‘deviant’ or predatory characterisation of transwomen<sup>30</sup>. There may be additional concerns that predatory men posing as transwomen may seek to gain access to women only spaces and services for malicious reasons. The Welsh Government has not identified any evidence supporting a link between women-only spaces being inclusive of transgender women, and cismen falsely claiming a trans identity to access these spaces and commit sexual violence.</p> <p>The draft LGBTQ+ Action Plan may affect matters concerning freedoms</p>	

<sup>29</sup> UN IESOGI (2021) *The law of inclusion*. <https://undocs.org/A/HRC/47/27>

<sup>30</sup> Eckes, S. (2017) ‘The restroom and locker room wars: Where to pee or not to pee’. *Journal of LGBT Youth*, 14(3): 247-265.

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		<p>of expression on the grounds of belief and faith. However, while the right to hold a belief is absolute, the right to manifest is a qualified one:</p> <p>A recent tribunal in London ruled that the claimant’s gender critical beliefs amount to a philosophical belief within the meaning of the Equality Act 2010 (Forstater v CDG Europe UKEAT/0105/20/JOJ). There is concern that the judgement will leave marginalised groups (particularly trans people) more vulnerable to discrimination and harassment. The appeal tribunal was very clear in stating that whilst the claimant was afforded protection from discrimination in respect of her protected characteristic related to her belief, she will nonetheless remain subject to the prohibitions on discrimination and harassment that apply to everyone else. The ruling makes clear that the decision does not mean that trans people are subject to lesser rights and does not mean that people with gender critical views are free to misgender or discriminate against trans people.</p> <p>The Welsh Government 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, rather it 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 will sit in line with the obligations laid down by the United Nations Convention on the Elimination of Discrimination against Women</p>	

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		<p>(CEDAW)<sup>31 32</sup>. The UN IESOGI supports this position, in their thematic report on Gender Identity they conclude:</p> <p><i>“The work to address and ultimately eradicate violence and discrimination based on sexual orientation and gender identity is not in opposition to the human rights of women; on the contrary, these areas of concern are largely overlapping and conceptually, socioeconomically, politically and legally reinforce each other.</i></p> <p><i>... States [should] provide access to legal recognition of gender identity in a manner consistent with the rights to freedom from discrimination, equal protection of the law, privacy, identity and freedom of expression, and adopt all necessary measures so that such recognition:</i></p> <ul style="list-style-type: none"> <li><i>a) Is based on self-determination by the applicant;</i></li> <li><i>b) Is a simple administrative process;</i></li> <li><i>c) Is not connected with abusive requirements, such as medical certification, surgery, treatment, sterilization or divorce;</i></li> <li><i>d) Includes the acknowledgement and recognition of non-binary identities in their</i></li> </ul>	

<sup>31</sup> UN OHCHR (1979) Articles 1 and 2 of UN CEDAW <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CEDAW.aspx>

<sup>32</sup> UN Committee on the Elimination 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>

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		<p><i>full diversity and specificity;</i></p> <p>e) <i>Ensures that minors have access to recognition of their gender identity.</i><sup>33</sup></p> <p>However, consultation responses to the draft plan will be considered in further policy development.</p>	
Sexual orientation (Lesbian, Gay and Bisexual)	<p>Positive.</p> <p>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. Actions will include policy measures across a broad range of areas including strengthening human rights protections, education, personal security, health and social care and culture and sport, and the workplace.</p>	<p>The Independent LGBTQ+ Expert Panel report identified significant inequalities across many areas of life, including legal protections, safety, education, health and social care, housing, community inclusion, the workplace and Covid-19 recovery.</p> <p>There is limited population data available on sexual orientation and gender identity. This situation should change in the future due to sexual orientation and gender identity capture being included in Census 2021 requirements. According the ONS estimate figures in 2019, the proportion of the UK population aged 16 years and over identifying as heterosexual or straight decreased from 94.6% in 2018 to 93.7% in 2019. An estimated 2.7% of the UK population aged 16 years and over identified as lesbian, gay or bisexual (LGB) in 2019, an increase from 2.2% in 2018<sup>34</sup>.</p> <p>Evidence suggests that LGBT+ people are experiencing deepening and</p>	Feedback from the consultation will be used to further inform development of EIA

<sup>33</sup> UN IESOGI (2021) *The law of inclusion*. <https://undocs.org/A/HRC/47/27>

<sup>34</sup> ONS (2021) *Sexual orientation, UK: 2019*

<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/sexuality/bulletins/sexualidentityuk/2019>

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
		<p>widening inequalities as a result of the COVID-19 crisis<sup>35</sup>.</p> <p>Figures show a marked increase in incidents of reported hate crime based on sexual orientation. In 2015/16, there were 6,700 recorded incidents and in 2019/20 there were 15,835 incidents. This is an increase of 42%<sup>36</sup>.</p> <p>Evidence points to almost half of all LGBT pupils experience bullying at school for being LGBT, and more than two in five trans young people have tried to take their own life<sup>37</sup>.</p> <p>The UK National LGBT Survey found that large numbers of respondents had difficulty accessing healthcare services and especially gender identity clinics. It also showed many respondents had experienced inappropriate questioning and curiosity from healthcare staff, and that some respondents feel their specific needs were ignored or not taken into account when accessing healthcare<sup>38</sup>.</p> <p>A third of LGBT employees in Wales (34 per cent) hid or disguised that they are LGBT at work in the last year because they were afraid of discrimination<sup>39</sup>.</p>	

<sup>35</sup> UN IESOGI (2020) *Protection against violence and discrimination based on sexual orientation and gender identity*  
<https://undocs.org/A/75/258>

<sup>36</sup> UK Home Office (2020) *Official Statistics Hate crime, England and Wales, 2019 to 2020*.  
<https://www.gov.uk/government/statistics/hate-crime-england-and-wales-2019-to-2020>

<sup>37</sup> Stonewall (2017) *The School Report*. [https://www.stonewall.org.uk/system/files/the\\_school\\_report\\_2017.pdf](https://www.stonewall.org.uk/system/files/the_school_report_2017.pdf)

<sup>38</sup> UK Government Equalities Office (2018) *National LGBT Survey Research Report*  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/721704/LGBT-survey-research-report.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/721704/LGBT-survey-research-report.pdf)

<sup>39</sup> Stonewall (2018) *LGBT in Wales Work Report*  
<https://www.stonewallcymru.org.uk/system/files/LGBT%20in%20Wales%20Work%20Report%202018.pdf>

Protected characteristic or group	What are the positive or negative impacts of the proposal?	Reasons for your decision (including evidence)	How will you mitigate Impacts?
Marriage and civil partnership	Neither positive or negative impact	N/A	N/A
Children and young people up to the age of 18	Positive.	Please see Children’s Rights Impact Assessment	Feedback from the consultation will be used to further inform development of EIA.
Low income households	<p>Positive.</p> <p>The draft LGBTQ+ Action Plan proposes a broad range of actions across various policy areas to address socioeconomic disadvantage and inequalities of outcomes experienced by LGBTQ+ people. For example, LGBTQ+ people face additional barriers accessing the workplace and fair work conditions. The action plan sets out proposals which intend to improve understanding of LGBTQ+ people in the workplace and help to challenge discrimination they may face.</p>	<p>A significant amount of evidence sources have been considered throughout the development of LGBTQ+ Action Plan and the Independent LGBTQ+ Expert Panel – these have identified a broad range of socioeconomic factors and inequalities affecting LGBTQ+ people.</p>	<p>Feedback from the consultation will be used to further inform development of EIA.</p>