

Equality, Diversity & Human Rights Policy

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1. Statement of Purpose

This policy sets out LGBT Youth Scotland's commitment to equality, diversity and human rights.

1.1 At LGBT Youth Scotland everybody has a right to be treated with dignity and respect.

1.2 LGBT Youth Scotland is committed to creating a culture in which equality, diversity and human rights are promoted actively and unlawful discrimination is not tolerated. We recognise that the experiences and needs of every individual are unique and strive to respect and value the diversity of staff, volunteers, young people and key stakeholders. This is embedded into our organisational values set out in our Strategy for a Sustainable Future 2020 - 2023.

1.3 LGBT Youth Scotland is committed to the prevention of unlawful discrimination, harassment or victimisation on the grounds of *age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation* (the 'Protected Characteristics' outlined in the Equality Act 2010).

1.4 Recognising the limitations of the Equality Act 2010 and the need to go beyond our legal duties, we have added to the definitions outlined by the Equality and Human Rights Commission to specifically include intersex identities, English as a second language and all transgender identities and have extended this list of characteristics to include carers, care experienced young people and socio-economic status. When the term 'protected characteristic' is used throughout this document we include the above list which goes beyond the limits of the Equality Act 2010.

1.5 Equality and Human Rights is important to LGBT Youth Scotland. We aim to:

- create an environment and culture where people are equally valued and respected and where diversity is celebrated;
- ensure that the services we provide are accessible to all;
- develop services that best meets the needs of our diverse communities;
- recognise our role in actively promoting equality and human rights;
- ensure that young people, staff and volunteer experience is free from unlawful discrimination;
- create policies and making decisions that consider any adverse impact on the promotion of equality and inclusion for our staff, volunteers and service users.

1.6 LGBT Youth Scotland also recognises that its role in influencing the practice of other organisations with which it in engages and to champion equality, diversity and human rights.

2. The Scope of the Policy

2.1 Promoting equality and human rights are core to all LGBT Youth Scotland functions and activities. This policy therefore applies to:

- young people and all areas of service provision;
- all staff directly employed by LGBT Youth Scotland;
- all active/ registered volunteers at LGBT Youth Scotland, including board members;
- engagement with any external stakeholders include professionals, parents and carers and community members.

2.2 This policy applies to the advertisement of jobs, recruitment and appointment, promotion, training and development, terms and conditions of work, performance management, pay, termination of employment, any references issued and to every other aspect of employment. All terms and conditions of employment and related benefits shall be non-discriminatory and applicants for employment will be assessed according to their skills, experience and suitability for the job.

2.3 It also applies to all of LGBT Youth Scotland practice and business including but not limited to: youth work, 1-2-1 support, events, the LGBT Charter, training, policy work and partnership work.

2.4 Importantly, all staff and volunteers have a personal responsibility for the implementation of this policy.

3. Understanding Equality and Diversity

3.1 Equality is not about treating everyone the same. The Equality and Human Rights Commission describe equality as: *'Ensuring that every individual has an equal opportunity to make the most of their lives and talents'*.

Equality recognises that:

- everyone has individual needs and the right to have those needs respected;
- inequality exists and that unlawful discrimination needs to be tackled;
- that services should be accessible to all;
- is about treating people fairly.

3.2 Diversity is about respecting and valuing individual difference.

A diversity approach aims to recognise, value and manage differences to enable all to contribute and realise their full potential. Diversity challenges us to recognise and value all sorts of differences in order to make the LGBT Youth Scotland a better working environment and to ensure that we provide an excellent service for all people.

3.3 See Appendix 2.2 for more information on the Human Rights Framework

4. The Protected Characteristics

4.1 The Equality Act 2010 provides protection against discrimination at work and in the provision of services. The Act simplifies, strengthens and harmonises previous equality legislation.

4.2 Below are equality statements related to the nine protected characteristics within the Equality Act (2010). They include LGBT Youth’s perspective as well as the Equality and Human Rights definition for the protected characteristic within the Act.

- **Sex** - We know that people can face disadvantage and discrimination because of their gender¹. This is called sexism – the belief that a certain gender/ sex is better than another. Sexism can mean an individual’s gender is the subject of negative stereotypes and attitudes, treated as inferior and denied the same quality of life as other genders. It can also mean they face harassment, victimisation, hatred and violence. Historically, this is particularly the case for women.

In terms of the Equality Act (2010) the term ‘sex’ is defined as: ‘*someone being a man or a woman*’. However, we know that some people feel that their gender identity cannot be simply defined by the binary terms of ‘man’ or ‘woman’. Instead, they experience their gender in another way. Typically, this group of people are referred to as being ‘non-binary’. More information on non-binary identities can be found under the heading Gender reassignment and Transgender Identity.

We also expand this definition to include **intersex people**. The term intersex is most commonly defined as a term used for people who are born with variations of sex characteristics, which do not always fit society’s perception of male or female bodies².

- **Race:** We know that Black, Asian, minority and ethnic communities, and individuals, face discrimination and disadvantage due to racism. Racism means negative beliefs about people based on their race, colour, nationality, national or ethnic origin.

¹ The terms ‘sex’ and ‘gender’ are used interchangeably in law, in policies and in practice. Whilst one is often described as biological and the other sociological, we believe these definitions are too simplistic as people face discrimination and prejudice both in relation to their biology as well as their perceived gender. Trans people can also change their ‘legal sex’ through the provisions of the Gender Recognition Act 2003.

² Intersex – An umbrella term used for people who are born with variations of sex characteristics, which do not always fit society’s perception of male or female bodies. “Intersex is... used to describe a wide range of natural bodily variations. In some cases, intersex traits are visible at birth while in others, they are not apparent until puberty. Some chromosomal intersex variations may not be physically apparent at all”. United Nations. For more information: equality-network.org

In terms of the Equality Act 2010 the term ‘race’ is defined as ‘*a group of people defined by their race, colour, and nationality (including citizenship) ethnic or national origins*’. A racial group can be made up of two or more distinct racial groups, for example black Britons, British Asians, British Sikhs, British Jews, Romany Gypsies and Irish Travellers.

We also expand this definition to specifically include those with **English as a second language**. Prohibiting someone from speaking in their own / native language is likely to be direct race discrimination unless it was done for a reason unconnected to their race.

Whilst the law is broad in relation to race there is a need to address the specific needs of groups and where appropriate, use specific language. For example, when talking about Black people it is important to use this term; recognising the unique history of racism, and that black people experience significant discrimination and prejudice specifically because the colour of their skin. When developing an anti-racist approach, it is also important to recognise the importance of discussing ‘privilege and power’.

- **Sexual orientation:** We know that lesbians, gay men and bisexual people face disadvantage and discrimination. This is because of homophobia – the fear, dislike or hatred of lesbian, gay and bisexual people or, heterosexism – the belief that the lives of heterosexual people are better or more valid.

In terms of the Equality Act 2010 ‘sexual orientation’ is described as ‘*a person’s sexual attraction is towards their own sex, the opposite sex or to both sexes*’. At LGBT Youth Scotland, we are clear that this also applies to heterosexual staff, volunteers and service users and aim to ensure our culture is welcoming for all, whilst providing specific services for LGBTI young people. This also aligns with the legal definition.

We recognise the specific needs of lesbians, gay people and bisexuals³ as well as specifically including the needs of asexual people, taking steps to deliver work around lesbian visibility, bi visibility, and asexual⁴ visibility. It is also important to note that our staff, volunteers and service users should be able to self-identify their sexual orientation and that this can include a broad range of identities including, but not limited to, pansexuals⁵ and queers⁶.

³ Bisexual - A word describing a person who is emotionally and/or physically attracted to people of more than one gender or regardless of gender. The term ‘bi’ is commonly used as a shorter version of this term. The term ‘pansexual’ can also be used to explicitly recognise that there is more than one gender. For more information: <http://wordpress.biscotland.org/>

⁴ Asexuality - a sexual orientation where a person experiences little to no sexual attraction to anyone and/or does not experience desire for sexual contact. However, they may experience romantic attraction. The term ‘ace’ can also be used. For more info: www.acesandaros.org/

⁵ See reference 3.

⁶ Queer - An umbrella term used for diverse sexual orientations or gender identities that are not heterosexual and do not conform with a gender binary.

- **Disability:** We know that disabled people face significant disadvantage and discrimination. This is because of negative beliefs about disabled people as well as environmental barriers such as lack of disabled access or consideration of their needs. This means that disabled people do not have the same opportunities or choices as non-disabled people.

Disabled people can also face harassment, hatred and victimisation and some people can express pity, fear or a lack of respect towards disabled people. This can mean that they are not fully included in society.

Within the Equality Act 2010 '*a person has a disability if they have a physical or mental impairment OR the impairment has a substantial and long-term adverse effect on their ability to perform normal day-to-day activities*'. People with progressive conditions can also be classed as disabled. However, people will automatically meet the disability definition under the Equality Act 2010 from the day they are diagnosed with HIV, cancer or multiple sclerosis.

- **Age:** We know that people can face disadvantage and discrimination because of their age. This can affect people at any stage of their lives, but it can particularly affect young people and older people. This is because of age discrimination or ageism – negative beliefs based on age. This can affect people seeking employment.

In terms of the Equality Act (2010) 'age' refers to '*a person having a particular age (for example, 32 years old) or being within an age band (for example, 18-25, 40-50 years old)*'.

LGBT Youth Scotland recognises that a person's age does not affect their job performance. We should not make judgements about a person's physical and mental abilities based on their age; and that being positive about age leads to a wider range of skills and abilities in the workplace.

- **Gender reassignment and transgender identity**
Transgender people experience prejudice and discrimination specifically because of their transgender status. This is often called transphobia – the fear, dislike or hatred of transgender people. As a result, transgender people may experience disadvantage, discrimination, victimisation and harassment and this can affect those seeking employment or accessing services.

Within Equality Act 2010 the term 'gender reassignment' is used. This is defined as '*the process of transitioning from one gender/sex to another*'. Importantly, to be protected from gender reassignment discrimination, a person does not need to have undergone any specific treatment or surgery to change from your birth sex to your preferred gender. This is because changing your physiological or other gender attributes is a personal process rather than a medical one. A person can be at any stage in the transition process – from proposing to reassign your gender, to

undergoing a process to reassign your gender, or having completed it. At LGBT Youth Scotland we recognise the limitations of this legislation and include **all those with a transgender identity** within this policy. In the UK the term transgender is an umbrella term for those whose gender identity or expression is different from the norms expected by the society they live in. Included in the overall transgender category are trans men/ boys⁷, trans women/ girls⁸ and those with a **non-binary gender identity**⁹. People who ‘cross-dress’¹⁰ also identify themselves as being under the transgender umbrella.

- **Marriage and civil partnership:** Throughout the UK marriage and civil partnerships are now available to both mixed-sex and same-sex couples.

In the Equality Act 2010 ‘marriage and civil partnership’ means someone who is legally married or in a civil partnership. *‘Marriage can either be between a man and a woman, or between partners of the same sex’ ... couples can also have their relationships legally recognised as ‘civil partnerships’. Civil partners must not be treated less favourably than married couples (except where permitted by the Equality Act’.*

At LGBT Youth Scotland it important that no-one is treated differently (negatively or favourably) specifically because they are married or in a civil partnership.

- **Pregnancy and maternity:** As defined by the Equality Act (2010) ‘pregnancy’ is *‘the condition of being pregnant or expecting a baby. Maternity refers to the period after birth and is linked to maternity leave in the employment context. In the non-work context, protection against maternity discrimination is for 26 weeks after giving birth, and this includes treating someone unfavourably because they are breastfeeding’.*

At LGBT Youth Scotland is important that pregnant or breastfeeding individuals do not experience any prejudice or discrimination in the workplace, in our services or whilst on maternity leave and that reasonable additional adjustments are made.

- **Religion or belief:** At LGBT Youth Scotland we are committed to recognising and celebrating a diversity of faiths and religion and will seek to be inclusive and welcoming in our practice. People have legal protection from being discriminated against because of religion or belief under the Equality Act. They also have a right to hold a religion or belief under Article 9 of the Human Rights Act 1998.

Within the Equality Act 2010 ‘religion’ refers to *‘any religion, including a lack of*

⁷ Trans Man/ Boy - People assigned ‘female’ at birth who identify as boys/men.

⁸ Trans Woman/ Girl - People assigned ‘male’ at birth who identify as girls/women.

⁹ Non-binary - Gender identities that don’t fit within the socially ‘accepted’ binary of male and female. People can feel they are both, neither, or a mixture of gender identities. Many view gender as a one dimensional spectrum with male on one end, female on the other, and non-binary in the middle - but the reality is that gender is often more complex.

¹⁰ Cross Dress - a term for people that dress in clothing normally considered appropriate for the opposite sex – All terms above from Scottish Trans Alliance/ Supporting Trans Young People - Guidance for Scottish Schools

religion’. ‘Belief’ refers to ‘any religious or philosophical belief and includes a lack of belief. Generally, a belief should affect your life choices or the way you live for it to be included in the definition’.

For a philosophical belief to be protected under the Act it must: be genuinely held, be a belief and not just an opinion or viewpoint based on the present state of information available, be about a weighty and substantial aspect of human life and behaviour, attain a certain level of cogency, seriousness, cohesion and importance, and be worthy of respect in a democratic society, not incompatible with human dignity and not in conflict with fundamental rights of others. For example, Holocaust denial, or the belief in racial superiority are not protected. Beliefs such as humanism, pacifism, vegetarianism and the belief in man-made climate change are all protected.

For more information on the Equality Act (2010) and protected characteristics go to: <https://www.equalityhumanrights.com/en/equality-act/protected-characteristics>

4.2 As noted previously, we extend our list of protected characteristics to **carers**¹¹, **care experienced**¹² **young people** and **socio-economic status**¹³. This means that we make ‘reasonable adjustments’ for staff and volunteers as well as take steps to address the specific needs of young with these characteristics.

4.3 Whilst, recognising the inequality experienced by those with the characteristics noted above, it is important also important to take an **intersectional approach** that is both meaningful and considered. Intersectional work is aimed at helping organisations become more inclusive of *all* their service users and respect every part of their identity. The risk of focusing on one characteristic is that you can treat people who possess a characteristic as one homogenous entity, putting people in a single ‘box’ rather than celebrating the whole person as a unique individual.¹⁴

¹¹ A carer - anyone, including children and adults who looks after a family member, partner or friend who needs help because of their illness, frailty, disability, a mental health problem or an addiction and cannot cope without their support. The care they give is unpaid.

¹² Care experienced - refers to anyone who has been or is currently in care. This care may have been provided in many different settings. For more info: www.whocaresscotland.org

¹³ *Socioeconomic status* - the social standing or class of an individual or group. It is often measured as a combination of education, income and occupation. Examinations of *socioeconomic status* often reveal inequities in access to resources, plus issues related to privilege, power and control.

¹⁴ Intersectionality - The interconnected nature of social categorisations such as race, class, disability and gender as they apply to a given individual or group, regarded as creating overlapping and interdependent systems of discrimination or disadvantage.

5. Types of Unlawful Discrimination¹⁵

- Direct discrimination - occurs where someone is treated less favourably because of one or more of the protected characteristics set out above. An example of direct discrimination would be refusing to employ a woman because she is pregnant.
- Indirect discrimination - occurs where someone is disadvantaged by an unjustified provision, criterion or practice that also puts other people with the same protected characteristic at a particular disadvantage.
- Associative discrimination - is where someone is directly discriminated against or harassed for association with another person who has a protected characteristic (although it does not cover harassment because of marriage and civil partnership, and pregnancy and maternity).
- Perceptive discrimination - is where someone is directly discriminated against or harassed based on a perception that they have a particular protected characteristic when he/she does not, in fact, have that protected characteristic (other than marriage and civil partnership, and pregnancy and maternity).
- Harassment - is unwanted conduct that has the purpose or effect of violating someone's dignity, or creating an intimidating, hostile, degrading, humiliating or offensive environment for them. This includes third party harassment related to gender, sexual orientation, gender reassignment, race, religion or belief, age or disability.
- Victimisation - is less favourable treatment of someone who has raised or supported a complaint or raised a grievance under the Equality Act 2010 for discrimination or harassment, or because they are suspected of doing so.

6. The Human Rights Framework

6.1 The Human Rights Act 1998 sets universal standards to ensure that a person's basic needs as a human being are recognised and met.

6.2 In practice this means treating individuals with fairness, respect, equality, dignity and autonomy whilst also safeguarding the rights of the wider community when developing policies and procedures and carrying out our functions. LGBT Youth Scotland will consider

¹⁵ As defined by the Equality Act (2010)

these human rights principles in relation to our staff, volunteers and provision of services at all times.

7. Disability & Additional Adjustments

7.1 LGBT Youth Scotland is committed to ensuring equality of opportunity for those members of staff who are disabled or become disabled for the purposes of the Equality Act 2010 during their employment.

7.2 If an Employee is disabled or becomes disabled, LGBT Youth Scotland encourages them to tell the Charity about their condition so that LGBT Youth Scotland may support them as appropriate.

7.3 If an employee experiences difficulties at work because of their disability, they may wish to contact their line manager to discuss any reasonable adjustments that would help to overcome or minimise the difficulty. The duty to make reasonable adjustments includes the removal, adaptation or alteration of physical features, if the physical features make it impossible or unreasonably difficult for disabled people to carry out their defined roles. In addition, service providers have an obligation to think ahead and address any barriers that may impede disabled people from accessing a service or activity. A disabled Employee's line manager may wish to consult with them and their medical adviser(s) about possible adjustments. LGBT Youth Scotland will consider the matter carefully and seek to make reasonable adjustments to the Employee's role based on any medical advice it feels is relevant.

7.4 If an Employee is unable to continue in their current role as a result of a disability, LGBT Youth Scotland will consider any alternative roles and vacancies they may have as a way of retaining the services of that Employee.

7.5 In addition, LGBT Youth Scotland has an obligation to think ahead and address any barriers that may impede disabled people from accessing any service or activity and make reasonable adjustments.

8. Going Beyond Legislation

8.1 As well as taking steps to eliminate discrimination and other unlawful conduct, LGBT Youth Scotland is committed to advancing equality of opportunity and fostering good relations

between people who share a 'protected characteristic¹⁶' and those who do not. Whilst this is not a legal duty for our organisation, we believe that this is a principle that we must uphold and is key to our practice.

8.2 To support practice that seeks to promote equality and diversity LGBT Youth Scotland is committed to meaningful partnership work with organisations that have specialist knowledge in meeting the needs of groups that have identified characteristics or intersecting identities.

9. Responsibilities

9.1 LGBT Youth Scotland

9.1.1 LGBT Youth Scotland has a responsibility to have due regard to the Equality Act 2010 and the Human Rights Act 1998. It is therefore essential that a culture is established where unlawful discrimination is unacceptable and will not be tolerated. In addition, LGBT Youth

Scotland will:

- ensure the organisation regularly reviews all relevant policies ensuring they meet the principles of the Equality Act 2010 and Human Rights Act 1998
- develop processes to monitor and record equalities data, analyse it and identify next steps
- carry out an Equalities and Human Rights Impact Assessments and/ or Children's Rights Impact Assessment when there is a significant change in policy or practice and develop supporting processes

9.1.2 LGBT Youth Scotland's Board is its governing body and as such trustees are responsible for the organisations legal duties in relation to the Equality Act (2010) as well as the fulfilment of the principles set out within our Equality and Diversity Policy.

9.1.3 When entering into a contractual relationship with any partner or supplier, LGBT Youth Scotland will clearly set out its expectations in respect of equality and diversity.

9.1.4 All LGBT Youth Scotland working groups and internal meetings are responsible for paying due regard to this policy when making decisions and carrying out their business.

9.2 Managers

9.2.1 All managers have a responsibility to adhere to this policy and to bring it to the attention of staff in their work area in order to establish and maintain an inclusive environment and culture that is free of unlawful discrimination.

9.2.2 Managers have a responsibility to:

- set a positive example by treating others with respect and setting standards of acceptable behaviour;
- promote an inclusive working environment where unlawful discrimination is unacceptable and not tolerated;
- ensure allegations of discriminatory behaviour or practice are correctly investigated and appropriate action is taken;
- ensure that teams work effectively together to address inequality and create a culture of inclusion;
- ensure staff are given equal opportunity to access learning and development opportunities;
- gather and review equality data as required;
- consider equality, diversity and human rights throughout planning and evaluation
- carryout or contribute to Equalities and Human Rights Impact Assessments and/or Children's Rights Impact Assessment as required
- ensure steps are taken in recruitment to specifically reach out to those with protected characteristics;
- ensure reasonable steps or measures are taken to support all staff, volunteers, and service users to feel included and supported at LGBT Youth Scotland.

9.3 All Staff & Volunteers

9.3.1 All staff have a personal responsibility for their own behaviour and for ensuring that they comply with the Equality Act 2010. LGBT Youth Scotland expects all staff to:

- understand equality and diversity and how this impacts on their work;
- have a personal responsibility to adhere to the Policy. This means staff should not undertake any acts of discriminatory practice in the course of their employment for which they will be personally liable and be pro-active in their practice to include others;
- help promote an inclusive environment by treating everyone with dignity and respect;
- respect and respond to the diverse needs of staff, service users and others; appropriately challenge and/or report behaviour that may be considered to be offensive when directed against themselves or others;

- have a responsibility to bring any potentially discriminatory actions or practice to the attention of their line manager;
- engage with equalities organisations in order to inform their practice and develop more inclusive approaches
- take reasonable steps or measures to support all young people, service users and others to feel included in LGBT Youth Scotland services and activities.

9.4 Young People, Service Users and Others

9.4.1 Young people, service users and others will be expected to recognise and comply with the principles set out in this Policy whilst on LGBT Youth Scotland premises or whilst receiving any service from LGBT Youth Scotland.

9.4.2 Young people, service users and any person in receipt of services from LGBT Youth Scotland are expected to be respectful to all staff and others. Young people, service users and any person in receipt of services from LGBT Youth Scotland who are verbally or physically abusive or who make derogatory statements that are of a discriminatory nature to any staff or others should be aware that they will be challenged about their behaviour. For more information on managing behaviour staff should refer to LGBT Youth Scotland's Positive Behaviour Policy.

9.4.3 Where appropriate, the LGBT Youth Scotland may consider limiting or withdrawing the provision of services to, young people, service users and any person in receipt of services from LGBT Youth Scotland.

10. Breaches of the Equality, Diversity and Human Rights Policy

10.1 Allegations of bullying, harassment or victimisation of any service user, staff member or volunteer will be taken seriously and will be dealt with appropriately under the relevant procedures.

10.2 All staff and volunteers must adhere to this policy, and a failure to do so may lead to disciplinary action. In this case managers should follow LGBT Youth Scotland's Disciplinary Policy and Procedure. If a member of staff is found to have discriminated against, harassed or victimised another member of staff, they will be subject to disciplinary proceedings and, depending on the seriousness of the incident, may be dismissed for Gross Misconduct. In exceptionally serious cases the police may also be involved.

10.3 If any member of staff believes that they have been discriminated against, harassed or victimised on any of the grounds referred to above, they can raise the matter informally with their line manager who has a duty to provide support and identify next steps. If the member of staff wishes to raise the matter further, they should follow LGBT Youth Scotland's Grievance Procedure setting out in detail the basis of their complaint.

10.4 Steps to take if a breach of this of policy occurs:

- If any employee or volunteer considers that this policy has been breached, they should contact their line manager in the first instance.
- If any young person feels that this policy has been breached, they should contact their youth worker in the first instance or indeed any staff member they would feel comfortable discussing this information with. LGBT Youth Scotland has a Positive Behaviour Policy and Complaints Procedure which are available for young people. The youth worker, or staff member can support the young person through this.
- A parent or carer, community member, professional or any other stakeholder should be directed to most relevant manager or can e-mail: complaints@lgbtyouth.org.uk.

10.5 All complaints will be taken very seriously. They shall be treated in confidence and investigated fully by an independent member of management. Any false allegations made by staff will be dealt with under LGBT Youth Scotland's Disciplinary Policy and Procedure.

11. Monitoring, Evaluation and Implementation

11.1 The senior management of LGBT Youth Scotland have responsibility for monitoring the implementation of this policy.

11.2 In order to support the evaluation of the implementation of this policy, service user, staff and volunteer equalities data will be collected, reviewed and analysed on an annual basis.

11.3 Data pertaining to protected characteristics - will be held safely, for a reasonable amount of time in line with LGBT Youth Scotland's Data Protection Policy and Procedure.

11.4 In order to monitor impact and identify needs LGBT Youth Scotland will also carry out anonymised surveys to develop actions plans and monitor impact.

12. Review

This policy will be reviewed in response to legislative changes, or every three years.

Appendix 1

1. Supporting Policies

There are several LGBT Youth Scotland policies that connect to our Equalities and Diversity Policy and these should be read in conjunction:

- Performance and Supervision Policy & Procedure
- Grievance Procedure
- Disciplinary Policy & Procedure
- Capability Policy & Procedure
- Volunteer Problem Solving Policy
- Positive Behaviour Policy
- Safeguarding Policy
- Data Protection Policy & Procedure
- Maternity Policy

Appendix 2

2. The Legal Framework

2.1 The Equality Act (2010)

The Equality Act 2010 came into force in October 2010. The aim of the Act is to reform, harmonise and streamline discrimination law, and to strengthen the law to support progress on equality. The Equality Act 2010 replaces all previous UK equality and anti-discrimination legislation with one piece of legislation. The Act applies to employers, service providers, public bodies and providers of education.

The Act strengthens and extends protection from discrimination to cover nine 'protected characteristics': age, disability, gender reassignment, marriage and civil partnership status, pregnancy and maternity, race, religion and belief, sex, and sexual orientation. It continues to outlaw direct discrimination and indirect discrimination, and it extends protection from discrimination to cover discrimination by association and discrimination by perception. It also extends protection against harassment across most of the protected characteristics.

The Act also introduced a new public sector equality duty. The duty replaces the previous race, gender and disability equality duties, and it applies to all public bodies. It places a general duty on public authorities, when exercising their functions, to have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act.
- advance equality of opportunity between persons who share a relevant protected

characteristic and persons who do not share it.

- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

*Please note that LGBT Youth Scotland is not regarded as a public body. As a result the Equality Act (2010) public sector equality duty does not apply. However, where it can be evidenced, that LGBT Youth Scotland is contracted or delivering work on behalf of a public body, aspects of the public sector equality duty may apply.

For further information on the Equality Act 2010, visit the EHRC website www.equalityhumanrights.com/legal-and-policy/equality-act.

2.2 The Human Rights Framework

Human rights are the basic rights and freedoms that belong to everyone. International law, including treaties, contains the provisions which give human rights legal effect. Ideas about human rights have evolved over many centuries and the formal protection of these rights gained strong international support after World War II. In order to protect future generations from a repeat of gross human rights abuses – in particular the Holocaust – the United Nations in 1948 adopted the Universal Declaration of Human Rights which, for the first time, set out the fundamental rights and freedoms shared by all human beings without discrimination of any kind.

By signing up to international human rights treaties, a state takes on a legal obligation to respect, protect and fulfil the human rights of those within its jurisdiction. This is the position in the United Kingdom, which has ratified many such treaties and is held to account for its progress in complying with them.

The ‘human rights framework’ is a description which refers to all legal and other human rights commitments made by the UK. These include:

- treaties agreed under the auspices of international bodies, principally the United Nations, such as the International Covenant on Civil and Political Rights and the United Nations Convention on the Rights of Persons with Disabilities
- treaties agreed at a regional, European level, such as the European Convention on Human Rights (ECHR) which was agreed under the auspices of the Council of Europe, and 5 Equality and Human Rights Commission
- laws about human rights made at a national level: in the UK, this is principally the Human Rights Act 1998 (which incorporates the ECHR into our own law), although many other national laws play an important part in upholding human rights.

2.3 The Human Rights Act (1998)

The Human Rights Act 1998 (HRA) gives direct effect in UK law to most of the Convention rights. It does this by requiring public authorities to act in accordance with these rights (unless they are required to do otherwise by primary legislation). Convention rights included in the HRA are:

- The right to life (Article 2)
- The right not to be subjected to torture, inhuman or degrading treatment or punishment (Article 3)
- The right to be free from slavery and forced labour (Article 4)
- The right to liberty (Article 5)
- The right to a fair and public trial or hearing (Article 6)
- The right not to be subject to arbitrary or retrospective criminal penalties (Article 7)
- The right to respect for private and family life, home and correspondence (Article 8)
- The right to freedom of thought, conscience and religion (Article 9)
- The right to freedom of expression and to receive and impart information (Article 10)
- The right to assembly and to associate with others, including in organisations like trade unions (Article 11)
- The right to marry and start a family (Article 12)
- The right not to be discriminated against (Article 14)
- The right to peaceful enjoyment of possessions and property (Protocol 1, Article 1)
- The right to education, including respect for the religious and philosophical convictions of parents (Protocol 1, Article 2)
- The requirement to hold free and fair elections (Protocol 1, Article 3)
- Abolition of the death penalty (Protocol 6, Article 1)

2.4. The UN Convention on the Rights of the Child (UNCRC)

The UN Convention on the Rights of the Child (UNCRC) is a treaty that applies to everyone under the age of 18. Its aim is to recognise the rights of children and ensure that they grow up in the spirit of peace, dignity, tolerance, freedom, equality and solidarity.

The UNCRC was drafted in 1989 and is the most widely and rapidly ratified human rights treaty in history. In total, 196 countries have ratified it - including the United Kingdom on 16th December 1991. The USA is the only country that has not ratified the Convention.

In September 2020, the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill ("the Bill") was introduced to the Scottish Parliament. The significance of this is that, once passed, the UNCRC will become binding in Scots law for the first time. Public authorities (including local authorities, health authorities, courts, and Children's Hearings panels) will be required to act in a manner that is consistent with children's rights. Further,

children and their families will have recourse to the law if their rights, such as the right to education or access to healthcare, are breached by public authorities¹⁷.

2.5 The Children and Young People (Scotland) Act 2014

The Children and Young People (Scotland) Act 2014 put the UNCRC into Scottish statute for the first time. It encourages Scottish Ministers and public bodies to consider children's rights and requires them to prepare reports on what they are doing to progress children's rights. The Act also gives more powers to the Children and Young People's Commissioner Scotland.

Appendix 3

3. Glossary of Terms

- **Intersex** – An umbrella term used for people who are born with variations of sex characteristics, which do not always fit society's perception of male or female bodies. Intersex is... used to describe a wide range of natural bodily variations. In some cases, intersex traits are visible at birth while in others, they are not apparent until puberty. Some chromosomal intersex variations may not be physically apparent at all. United Nations. For more info: equality-network.org
- **Bisexual** - A person who is emotionally and/or physically attracted to people of more than one gender or regardless of gender. The term 'bi' can also be used. The term 'pansexual' can also be used to explicitly recognise that there is more than one gender. For more info: wordpress.biscotland.org
- **Asexuality** - a sexual orientation where a person experiences little to no sexual attraction to anyone and/or does not experience desire for sexual contact. However, they may experience romantic attraction. The term 'ace' can also be used. For more info: www.acesandaros.org
- **Queer** - An umbrella term used for diverse sexual orientations or gender identities that are not heterosexual and do not conform with a gender binary.
- **Non-binary** - Gender identities that don't fit within the socially 'accepted' binary of male and female. People can feel they are both, neither, or a mixture of gender identities. Many people view gender as a one dimensional spectrum with male on one end, female on the other, and non-binary in the middle - but the reality is that gender is often more complex.

¹⁷ For more information on the UNCRC got to [www. cypcs.org.uk](http://www.cypcs.org.uk)

- **A carer** - anyone, including children and adults who looks after a family member, partner or friend who needs help because of their illness, frailty, disability, a mental health problem or an addiction and cannot cope without their support. The care they give is unpaid.
- **Care experienced** - refers to anyone who has been or is currently in care. This care may have been provided in many different settings. For more info: www.whocarescotland.org
- **Socioeconomic Status** - the social standing or class of an individual or group. It is often measured as a combination of education, income and occupation. Examinations of socioeconomic status often reveal inequities in access to resources, plus issues related to privilege, power and control.
- **Intersectionality** - The interconnected nature of social categorisations such as race, class, disability and gender as they apply to a given individual or group, regarded as creating overlapping and interdependent systems of discrimination or disadvantage.