

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 all service users. 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. We have also 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 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, 1:1 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;
- it is about treating people fairly NOT in the same way.

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** - 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/sex is the subject of negative stereotypes and attitudes, and that people are treated as inferior or denied the same quality of life as others. 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 bodies.²

- **Race:** 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 – 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 not the same as gender identity (our sense of self) or sexual orientation (who we are attracted to) but is about the physical body we are born with.

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 referring to Black people or People of Colour (POC) it is important to use this term; recognising their unique experience of racism and that they experience 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:** Lesbian, gay 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 aligns with the legal definition.

We recognise the specific needs of lesbian, gay and bisexual³ people as well as 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 (if they choose to do so) and this can include a broad range of identities including, but is not limited to, the identities pansexual⁵ and queer⁶. We should strive to not make

³ Bisexual - A person who is emotionally and/or physically attracted to people of more than one gender or regardless of gender. The term ‘pansexual’ can also be used to explicitly recognise that there is more than two genders. Others also use the terms ‘bi’ for short or ‘queer’.

⁴ Asexuality - Asexual people experience little or no sexual attraction, or only experience sexual attraction in certain circumstances. See Appendix 3: Glossary of Terms for more information.

⁵ See reference 3.

⁶ Queer - The term 'queer' has been reclaimed by some as an umbrella term to avoid labels relating to their sexual orientation and gender identity. See Appendix 3: Glossary of Terms for more information.

assumptions regarding person's sexual orientation, particularly if this can lead to discrimination.

- **Disability:** 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 and it 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 and harassment. 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*'. To be protected from gender reassignment discrimination, a person does not need to have undergone any specific treatment or surgery to change from their birth sex to their

preferred gender. This is because changing their 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 to be protected by this Act – from proposing to reassign their gender, to undergoing a process to reassign their 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 trans is an umbrella terms for anyone whose gender identity or gender expression does not fully correspond with the sex they were assigned at birth. Included in the overall transgender category are trans men/ boys⁷, trans women/ girls⁸ and those with a **non-binary gender identity**⁹.

- **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 is important that no-one is treated differently (negatively or favourably) specifically because they are married or in a civil partnership.

- **Pregnancy and maternity**¹⁰: 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’.*

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 - A person identifying as either having a gender which is in-between or beyond the two categories ‘man’ and ‘woman’, as fluctuating between ‘man’ and ‘woman’, or as having no gender, either permanently or some of the time.

¹⁰ A LGBT Youth Scotland we are aware that people of any gender can give birth. We use the word “maternity” as this is the term used in the Equality Act 2010. We understand that this is a gendered word which may feel dissonant, uncomfortable or distressing particularly for trans people who have given birth. We want to acknowledge this and reassure staff that we are using this word out of legal necessity and are not assuming the gender of anyone who is pregnant or who has given birth.

At LGBT Youth Scotland it 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 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, be about a weighty and substantial aspect of human life, attain a certain level of seriousness, cohesion and importance, 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 **carers¹¹, care experienced¹² young people and socio-economic status¹³**. This means that we should 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 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.

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.whocarescotland.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.

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

5. Types of Unlawful Discrimination¹⁵

There are four main types of discrimination outlined within the Equality Act (2010).

- **Direct discrimination** - This means treating one person worse than another person because of a protected characteristic;
- **Indirect discrimination** - This can happen when an organisation puts a rule or a policy or a way of doing things in place which has a worse impact on someone with a protected characteristic than someone without one;
- **Harassment** - This means people cannot treat you in a way that violates your dignity, or creates a hostile, degrading, humiliating or offensive environment;
- **Victimisation** - This means people cannot treat you unfairly if you are taking action under the Equality Act (like making a complaint of discrimination), or if you are supporting someone else who is doing so.

The Act also covers the following types of discrimination:

- **Associative discrimination** - Where someone is directly discriminated against or harassed for association with another person who has a protected characteristic.
- **Perceptive discrimination** - Where someone is directly discriminated against or harassed based on a perception that they have a protected characteristic when they do not.

NOTE: The types of discrimination noted above are not covered in relation to the protected characteristics of marriage and civil partnership, and pregnancy and maternity.

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.

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.

¹⁵ As defined by the Equality Act (2010) - <https://www.equalityhumanrights.com/en/advice-and-guidance/your-rights-under-equality-act-2010>

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 these human rights principles in relation to our staff, volunteers and in regards to the provision of services.

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 during their employment. This aligns with our legal duties outlined in the Equality Act (2010).

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

7.3 If an employee experiences difficulty 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 and additional aids or equipment (if existing provision make it unreasonably difficult for disabled people to carry out their defined roles).

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 relevant medical advice.

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 characteristic'¹⁶ 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 those with protected 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 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, Diversity and Human Rights 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's 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 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, communicating with their line manager and sharing their learning;
- take reasonable steps to support staff, volunteers, young people and all service users to feel included in LGBT Youth Scotland's day to day work, 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 provided by 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, volunteers or others (including any visitor to a group or event). 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 member, volunteer 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 If young people do not adhere to the Positive Behaviour Policy, LGBT Youth Scotland may consider limiting or withdrawing the provision of services to young people. This principle applies to all 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 or (if necessary) another manager they would feel comfortable with.
- 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.

NOTE: 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** – 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 not the same as gender identity (our sense of self) or sexual orientation (who we are attracted to) but is about the physical body we are born with. 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 'pansexual' can also be used to explicitly recognise that there is more than two genders. Others also use the terms 'bi' for short or 'queer' (see below). For more info: wordpress.biscotland.org
- **Asexuality** - Asexual people experience little or no sexual attraction, or only experience sexual attraction in certain circumstances. Asexuality is a type of sexual orientation, alongside other orientations such as gay, lesbian, bisexual. It is not the same as celibacy or abstinence. They may or may not experience romantic attraction to people of the same or different genders than themselves.

The term 'Ace' can be used as an umbrella term used to describe a variation in levels of romantic and/or sexual attraction, including a lack of attraction. Ace people may describe themselves using one or more of a wide variety of terms, including, but not limited to, asexual, aromantic and demisexual. For more info: galop.org.uk/the-a-in-lgbtqia-is-for-ace-not-ally/

- **Queer** - The term 'queer' has been reclaimed by some as an umbrella term to avoid labels relating to their sexual orientation and gender identity. It is important to note that the word queer is still considered offensive by some people, depending on their generation, geographic location, and the status of the person using the term.

¹⁷ For more information on the UNCRC got to www.cypcs.org.uk

- **Non-binary** - A person identifying as either having a gender which is in-between or beyond the two categories 'man' and 'woman', as fluctuating between 'man' and 'woman', or as having no gender, either permanently or some of the time. For more info: equality-network.org
- **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 in 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; creating overlapping and interdependent systems of discrimination or disadvantage.