

Scottish Government Non-Binary Equality Action Plan – Equality Impact Assessment

November 2023

Equality Impact Assessment Record

Title

Scottish Government Non-Binary Equality Action Plan 2023-2028

Minister

Minister for Equalities, Migration and Refugees

Lead official

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Directorate

Directorate for Equality, Inclusion and Human Rights

Is this new policy or revision to an existing policy?

New policy as set out in the Bute House Agreement and the 2021-2022 Programme for Government, we have a commitment that “Following receipt of the recommendations of the Working Group on Non-Binary Equality, we will develop an action plan by spring 2023 to improve non-binary equality and wellbeing”.

Executive Summary

In line with legal duties when proposing a new or revised policy the Scottish Government undertook this Equality Impact Assessment (EQIA) as part of the process to develop the Non-Binary Equality Action Plan (the ‘plan’). The aim of this EQIA is to assess any impacts of applying a proposed new or revised policy or practice against the needs relevant to the Scottish Government’s duty to meet the Public Sector Equality Duty (PSED). It considers the impact of this policy proposal on people with one or more of the protected characteristics listed in the Equality Act 2010. In line with good practice this EQIA will be kept under review.

An EQIA aims to consider how a policy may impact on different sectors of the population in different ways. Equality legislation covers the Protected Characteristics (PCs) of: age, disability, gender reassignment, sex, pregnancy and maternity, marriage and civil partnership, race, religion and belief, and sexual orientation.

The aim of the Non-Binary Equality Action Plan is to improve non-binary equality and wellbeing in Scotland. Throughout the plan and this EQIA the term non-binary person is used to define someone who identifies as “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”. This definition was developed through engagement with people who have lived experience of identifying as non-binary.¹

We use the term ‘trans’ or ‘transgender’ to mean someone whose gender identity does not fully correspond with the sex they were assigned at birth.

Many non-binary people consider themselves to be part of the wider trans community and this definition aligns to that used by LGBTQI+ equality organisations. However, we know that not all non-binary people consider themselves to be trans. As many of the issues that are faced by non-binary people in the plan are also faced

¹ [Trans terms - Scottish Trans](#)

by trans people who are not non-binary, we have used ‘trans and non-binary people’, where relevant.

The plan was committed to following receipt of the recommendations of the Working Group on Non-Binary Equality, as set out in the Programme for Government 2021-2022 and the Bute House Agreement. The recent 2023-2024 Programme for Government has committed us to publishing the Action Plan.

This five year plan for 2023-2028 sets out the actions to deliver the accepted and partially accepted recommendations made by the Working Group on Non-Binary Equality so we can improve the lives of non-binary people and the wider trans community in Scotland.

The plan is ambitious and far reaching with six key themes which cover all aspects of non-binary people’s lives which are:

- Participation in Decision-Making
- Health Care
- Legislation, Guidance and Access to Services
- Data and Research
- Children and Young People
- Sport

The EQIA considers impacts on equalities groups based on the three tests it is required to address:

- Does this policy eliminate discrimination for each of the nine Protected Characteristics? If not is the discrimination justifiable? Can it be mitigated?
- Does this policy advance equality of opportunity for Protected Characteristic groups?
- Does this policy foster good community relations between people of Protected Characteristic groups?

Chapter 1: Background and Scope

Introduction

The EQIA is set out into three chapters.

The first chapter provides a background to the Non-Binary Equality Action Plan as well as the scope of the EQIA.

The second chapter summarises the data and evidence on non-binary people in Scotland relating to the protected characteristics.

Finally, the third chapter strategically looks at the actions outlined in the plan to identify impacts related to the protected characteristics, and sets out where specific actions or mitigations are needed to enhance positive impacts or mitigate potential negative impacts.

Background

In a June 2019 parliamentary statement on gender recognition reform, the then Cabinet Secretary for Social Security and Older People said:

I do not intend at this time to extend legal gender recognition to non-binary people but we recognise the need to address the issues that non-binary people face. I intend to establish a working group to consider possible changes to procedures and practice and what we can learn from best practice internationally as well as from within Scotland and the rest of the UK.

The commitment to undertake work to improve non-binary equality was reiterated in our Programmes for Government and the Bute House Agreement.²

The Working Group on Non-Binary Equality ('the Group') first met in Spring 2021 following delays due to the pandemic. It was independently chaired and composed of key stakeholder organisations, academics, and non-binary people. Officials from the Scottish Government Equality and Inclusion Division provided secretariat support and facilitated meetings, but were not members.

The Group published its report and recommendations³ in March 2022 which included 35 recommendations to improve the rights and wellbeing of non-binary people in Scotland. The recommendations spanned three categories: healthcare; data and law; and access to services.

² [Scottish Government and Scottish Green Party: draft shared policy programme - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/draft-shared-policy-programme/pages/2.aspx)

³ [Non-Binary Equality Working Group: report and recommendations - March 2022 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/non-binary-equality-working-group-report-and-recommendations/pages/2.aspx)

The Scottish Government issued its response⁴ to the Group's report and recommendations in July 2022, accepting or partially accepting the majority of recommendations and committing to consider some recommendations further. The action plan contains final decisions on these recommendations which were considered further after the publication of the Scottish Government's initial response. In total, the Scottish Government accepted or partially accepted 31 out of 35 recommendations. Four were declined due to not being achievable or deliverable.

The Non-Binary Equality Action Plan 2023-2028 sets out the actions to deliver the accepted and partially accepted recommendations made by the Group and meets our commitment to publish the action plan in the 2023-2024 Programme for Government.

EQIA Scope

This EQIA sets out evidence of non-binary people's experiences living in Scotland in accordance with the protected characteristics, and describes how measures have been arrived at to address negative impacts or promote positive impacts and advance equality.

A number of evidence sources have been considered to help frame this assessment. The findings of the Group have also been key to framing how the Scottish Government progressed with the Non-Binary Equality Action Plan.

Given the lack of data and evidence on non-binary people, we held an engagement phase on the action plan, which involved focus groups with non-binary people to gather their views on the actions in the plan. Key LGBTQI+ organisations such as Equality Network, Scottish Trans, Stonewall Scotland, LEAP Sports Scotland, LGBT Youth Scotland and LGBT Health & Wellbeing were also involved, alongside some former members of the Working Group on Non-Binary Equality.

⁴ [Foreword - Non-Binary Equality Working Group recommendations: Scottish Government response - gov.scot \(www.gov.scot\)](https://www.gov.scot/foreword-non-binary-equality-working-group-recommendations-scottish-government-response)

Chapter 2: Non-Binary Equality and Protected Characteristics

This chapter is a summary of existing evidence on non-binary people's equality in Scotland through the lens of the protected characteristics in the Equality Act 2010.

It is important to acknowledge that there is limited data on non-binary people in Scotland and their experiences. This EQIA is based on the current available evidence and data and is mainly drawn from Scottish sources. However, given the lack of evidence in Scotland, some comes from the UK as well as further afield. The views of those with lived experience which were gathered through the Group as well as the focus groups on the plan, during the engagement phase, are also included in this EQIA.

One of the six key themes of the plan is 'Data and Research ' and we intend to improve our knowledge and understanding of non-binary people's experiences through carrying out further research.

The analysis below takes each protected characteristic in the Equality Act 2010 and highlights the key evidence and data available in accordance with the themes of the plan. However, due to the limited evidence and data, we only cover the themes of the plan for the protected characteristic if we have enough evidence and data to do so.

Although the analysis focuses on one protected characteristic at a time, it is important to note that given the breadth of the actions in the plan, different protected characteristics inevitably intersect. Where a protected characteristic has a clear link within a specific theme of the plan, this will be highlighted.

At present, there is a lack of reliable evidence in relation to the number of non-binary people in Scotland. The Scottish Census in 2011 included a binary sex question with 'male' and 'female' as possible responses. It did not include a non-binary question.

A new question on trans status or history was added to the Scotland's Census 2022.⁵ National Records of Scotland (NRS) will use responses to this question to produce estimates on the number of non-binary people in Scotland. As part of their user consultation on census outputs NRS proposed outputs classifications for the trans status or history variable.⁶

Using data from Scotland's Census 2022, we hope to be able to provide estimates on the number of non-binary people in Scotland by Summer 2024. Data from Census 2021 for England and Wales show that 0.5% of the population in England and Wales have a gender identity that is different from their sex registered

⁵ [Scotland's Census 2022 paper questionnaires](#) | [Scotland's Census \(scotlandscensus.gov.uk\)](#)

The question used in Scotland's Census 2022 was "Do you consider yourself to be trans or have a trans history?" and could be answered by "Yes" or "No". There was a free-text option provided where respondents who chose "Yes" could specify whether they identified as non-binary or another trans identity. This question was voluntary and asked to people aged 16 or over.

⁶ [Scotland's Census 2022: Outputs Consultation spreadsheet](#) | [Scotland's Census \(scotlandscensus.gov.uk\)](#)

at birth.⁷ Of those who answered that their gender identity is different to their sex registered at birth, approximately 12% identify as non-binary (0.06% of the population aged 16 years and over). If these percentages are reflective on the population of Scotland, we'd expect there to be around 3,000 non-binary adults in Scotland. Non-binary people in England and Wales were more likely to be younger, with more than 4 in 5 non-binary people being aged between 16 and 34 years (85%).

The UK Government's National LGBT Survey, carried out in 2018, received 108,000 respondents from across the UK. Of respondents, 6.9% gave their gender identity as 'non-binary', and a further 0.9% gave their gender identity as 'other'. The respondents who identified as non-binary were more likely to be younger.⁸ The survey sample was self-selecting so these figures are not representative of the general population.

Gender Reassignment

Participation in Decision-Making

It is important that non-binary people of all ages have a voice and the opportunity to fully participate in decisions that affect their lives. The Group's report and recommendations noted that many of the barriers were the result of non-binary people not being included in decision-making processes. This highlights the importance of non-binary people being included in decision-making especially those who are marginalised in multiple ways to ensure people have greater access to power and autonomy.

The Group's report outlined why participation in decision-making was important to them. Sharing their lived experience of encountering significant barriers, they noted that "[i]f you are not in the room when decisions are being made, then your needs will be neither understood nor addressed". They noted that this applies for "all marginalised groups, who are not adequately included in decision-making processes, and who do not have equal power to shape policy-making or legislation".

Group members discussed how this impacted non-binary people who are marginalised in multiple ways, and the barriers those with multiple marginalisation would face to being part of discussions.

The Group felt the Scottish Government must "ensure that marginalised people can genuinely participate in shaping decisions that will affect their lives".⁹

When discussing the proposed actions in the plan in the focus groups, participants were clear that the barriers to enabling and supporting non-binary people, especially those with intersecting protected characteristics, are many, and ensuring people have the ability to influence decisions which will directly impact their lives is key. One participant noted that "if people are marginalised, they need to have their voices

⁷ [Gender identity, England and Wales - Office for National Statistics \(ons.gov.uk\)](https://ons.gov.uk/people-and-population/population-and-demography/articles/gender-identity-england-and-wales-2018/2018-07-20)

⁸ [LGBT Survey - Research Report - July 2018](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/714447/lgbt-survey-research-report-july-2018.pdf)

⁹ [Non-Binary Working Group Report and Recommendations March 2022 \(www.gov.scot\)](https://www.gov.scot/publications/non-binary-working-group-report-and-recommendations-march-2022/pages/10.aspx)

heard evermore in consultation, as they are missing from other areas of decision-making”.

Health Care

The Group highlighted that trans and non-binary people can wait for several years simply for a first appointment at a Gender Identity Clinic (GIC).¹⁰ At the largest clinic, the Sandyford in Glasgow, people can currently expect to wait longer than 44 months for an initial appointment. Research has found that the length of waiting times meant that:

- 67% of people experienced poorer mental health
- 62% of people experienced lower self-esteem
- 58% of people felt more isolated and excluded
- 30% of people were less likely to access other services
- 29% of people self-harmed
- 13% of people attempted suicide¹¹

This research was conducted in 2016, when reported waiting times were 260 days for adults and 314 days for young people. As waiting times have significantly lengthened since then, the impact on trans and non-binary people has likely worsened.

Dissatisfaction with the provision of gender reassignment services is echoed in The Scottish LGBT Equality Report where concern regarding the distances required to travel to attend services, long waiting lists, and the inconsistency of NHS service provision across different parts of Scotland are raised.¹² Additionally the 2019 NHS Greater Glasgow and Clyde/NHS Lothian LGBT+ Health Needs Assessment¹³ found not only was there a long waiting time for an initial consultation, but also additional frustration and distress for people caused by:

- Long waits between appointments
- Long waits for appointments notes to be transcribed and letters sent
- Long waits for referrals, or referrals not being made
- Correspondence being addressed to previous name/gender identity, even after repeated corrections
- Being given inaccurate information/expectations of waiting times
- Various other clerical inefficiencies and errors

Stonewall’s LGBT in Britain report stated up to one in ten trans people have gone abroad for gender reassignment medical treatment.¹⁴ This included buying hormones over the internet from other countries. The survey found a further 17% of trans people were considering these options. Engagement to date has indicated it is common that trans people access unregulated, online services to obtain hormone

¹⁰ [Non-Binary Working Group Report and Recommendations March 2022 \(www.gov.scot\)](http://www.gov.scot).

¹¹ [Scottish Public Health Network \(ScotPHN\) \(scotphn.net\)](http://scotphn.net)

¹² [The-Scottish-LGBT-Equality-Report.pdf \(equality-network.org\)](http://equality-network.org)

¹³ [Health needs assessment of lesbian, gay, bisexual, transgender and non-binary people \(scot.nhs.uk\)](http://scot.nhs.uk)

¹⁴ [Stonewall | LGBT in Britain - Trans Report \(2017\) \(stonewallscotland.org.uk\)](http://stonewallscotland.org.uk)

treatments. This is explained as a direct result of long waiting lists to access NHS services.

Self-medication as a result of long waiting times to access services was further evidenced by the 2019 NHS Greater Glasgow and Clyde/Lothian LGBT+ needs assessment.¹⁵ It stated many people waiting to access gender identity clinics opted to seek private treatment for hormones or buy hormones on the internet. It noted this had a very significant financial impact for people. The assessment observed some people who had bought hormones themselves on the internet had had problems relating to taking the wrong dosage. When subsequently accessing a clinic, they had had to be referred to an endocrinologist to correct this.

There are data gaps around non-binary people's access to GICs. Health Care Needs Assessment of Gender Identity Services Report found a reported increase in the number of young people and non-binary people, as well as an increase in the proportion of trans people who were still at the stage of questioning their gender identity looking to access services. They also found that non-binary individuals were more likely to have negative experiences at clinics as the characteristics of those accessing services are changing, and may not be met by current services.¹⁶

Scottish Trans conducted a report on non-binary people's experiences accessing GIC's in 2016 which found that despite GICs perhaps being one of the institutions that would be expected to have more knowledge about the diversity of gender identity, binary expectations around gender are still common in these settings.

Whilst some positive experiences and good practice were acknowledged, they noted it was clear that GICs need to improve to ensure that they are fit for purpose for non-binary people, with high numbers of respondents reporting discomfort in being open about their identity at GICs, feeling pressured to do things they didn't want to, and encountering problems because of their gender identity or gender expression.¹⁷

The Group highlighted the lack of knowledge of trans and non-binary healthcare needs among primary care providers, with many reporting that GPs often have poor knowledge, and that, while knowledge of trans people is generally low, understanding of non-binary needs is particularly lacking.¹⁸

A study of long-term health conditions and healthcare experience of trans and non-binary adults found that healthcare outcomes among trans and gender diverse individuals are better when accessing a primary care provider who is knowledgeable about trans healthcare issues, and the report found a much higher preference for continuity of care than all other survey respondents.¹⁹

¹⁵ [Health needs assessment of lesbian, gay, bisexual, transgender and non-binary people \(scot.nhs.uk\)](https://www.scot.nhs.uk/health-needs-assessment-of-lesbian-gay-bisexual-transgender-and-non-binary-people/)

¹⁶ [Health Care Needs Assessment of Gender Identity Services \(scotphn.net\)](https://www.scotphn.net/health-care-needs-assessment-of-gender-identity-services/)

¹⁷ [Non-binary-GIC-mini-report.pdf \(scottishtrans.org\)](https://www.scottishtrans.org/non-binary-gic-mini-report.pdf)

¹⁸ [Non-Binary Working Group Report and Recommendations March 2022 \(www.gov.scot\)](https://www.gov.scot/non-binary-working-group-report-and-recommendations-march-2022)

¹⁹ [Demographic characteristics, long-term health conditions and healthcare experiences of 6333 trans and non-binary adults in England: nationally representative evidence from the 2021 GP Patient Survey](https://www.gov.uk/government/research-data-and-analysis/demographic-characteristics-long-term-health-conditions-and-healthcare-experiences-of-6333-trans-and-non-binary-adults-in-england-nationally-representative-evidence-from-the-2021-gp-patient-survey)

The research shows a clear disparity between the primary care service trans and non-binary people receive and what they need. Evidence shows that trans and non-binary people have diverse needs from primary care services.

The National LGBT Survey showed that transgender respondents were more likely (84%) to have accessed or tried to access public healthcare services compared to cisgender respondents (79%) in the 12 months preceding the survey, including general healthcare services, mental health services, and sexual health services.

Whilst evidence shows trans and non-binary people need to access primary care, many do not have the confidence in the system when accessing services. A Scottish Trans report on non-binary people's experiences in the UK shows that most reported feeling uncomfortable being open about their non-binary identity when using general NHS services, where 60% of respondents 'never' felt comfortable, as well as with GPs where 50% of respondents said they 'never' felt comfortable.²⁰

This discomfort in disclosing identity relates to the experiences of discrimination when accessing primary care services, for example the LGBT Foundation Primary Care Survey Report in 2017 found that over 80% of non-binary patients experienced discrimination or unfair treatment based on their sexual orientation/trans status when accessing GP services.²¹

Further barriers for non-binary and trans people accessing healthcare centre on how primary care issues are perceived by providers. The Group gave the example of being referred for speech and language therapy. Whilst some trans and non-binary people can be referred for speech and language therapy via their GP, this is dependent on where you are in the country and whether your GP is willing to provide a referral. For many, this intervention can only be accessed via a referral from a GIC.²²

This lack of understanding of healthcare needs is shown by Stonewall Scotland's 'LGBT in Scotland – Health Report' which found that one in four LGBT people (27%), and nearly three in five trans people (59%) have experienced healthcare staff having a lack of understanding of specific trans health needs.²³

40% of transgender respondents who accessed healthcare services reported a negative experience, such as specific needs ignored or not taken into account (21%), avoiding treatment for fear of negative reaction (18%), receiving inappropriate curiosity (18%), pressure or being forced to undergo a medical or psychological test (7%) or having to change their GP due to a negative experience (7%).²⁴

The Trans Mental Health study 2012 found very high rates of mental health issues among transgender people, with 88% of respondents showing symptoms of

²⁰ [Non-binary-report.pdf \(scottishtrans.org\)](https://www.scottishtrans.org/non-binary-report.pdf)

²¹ [LGBT Foundation - Primary Care Survey Report 2017](https://www.lgbt.foundation.uk/reports/lgbt-foundation-primary-care-survey-report-2017)

²² [Non-Binary Working Group Report and Recommendations March 2022 \(www.gov.scot\)](https://www.gov.scot/non-binary-working-group-report-and-recommendations-march-2022)

²³ [LGBT in Scotland – Health Report \(stonewallscotland.org.uk\)](https://www.stonewallscotland.org.uk/lgbt-in-scotland-health-report)

²⁴ [Health needs assessment of lesbian, gay, bisexual, transgender and non-binary people \(scot.nhs.uk\)](https://www.scot.nhs.uk/health-needs-assessment-of-lesbian-gay-bisexual-transgender-and-non-binary-people)

depression and 75% of anxiety compared with 20% of people in the UK general population.²⁵

NHS Scotland's health needs assessment of lesbian, gay, bisexual, transgender and non-binary people found that both depression and anxiety was very common for trans and non-binary people with 72% of non-binary people saying they suffered from mental health issues, and that 82% of non-binary survey respondents had self-harmed.²⁶

A study by Stonewall Scotland 'LGBT in Scotland – Health Report' echoes these findings noting that half of LGBT people (49%) have experienced depression in the last year, including seven in ten trans people (72%). It also found that more than half of the trans people (52%) involved in the study have thought of taking their own life in the last year.²⁷

Transgender respondents also accessed mental health services more frequently (36%) than cisgender respondents (21%) but were also more likely (14%) to have been unsuccessful in accessing mental health services compared to cisgender respondents (7%).²⁸

Another study by the University of Cambridge looked at long term conditions and found that trans and non-binary adults are more likely than the general population to experience long-term health conditions, including mental health problems, dementia and learning disabilities, and to be autistic.²⁹

Whilst working access to services is clearly needed, research shows that trans and non-binary adults were less likely to be involved in decisions about care and treatment (85% compared with 93.7%). Those trans and non-binary adults with mental health needs were less likely to have their needs recognised and understood (77.6% compared with 87.3%). Fewer trans and non-binary adults said that overall their needs were met (88.1% compared with 95.2%).³⁰

The 2012 Trans Mental Health study found that over 60% of responders felt that they had to educate a health worker, and over 50% were told that the professional did not know enough about a type of trans healthcare to provide it. For nearly 30% of respondents, a healthcare professional had refused to discuss a trans-related health concern.³¹

The national LGBT Survey in 2018 stated that 21% of trans respondents said their specific needs were ignored or not taken into account when they accessed, or tried to access, healthcare services in the 12 months preceding the survey, with 18%

²⁵ [Trans Mental Health Study 2012 \(scottishtrans.org\)](https://www.scottishtrans.org/)

²⁶ [Health needs assessment of lesbian, gay, bisexual, transgender and non-binary people \(scot.nhs.uk\)](https://www.scot.nhs.uk/)

²⁷ [LGBT in Scotland – Health Report \(stonewallscotland.org.uk\)](https://www.stonewallscotland.org.uk/)

²⁸ [Trans Mental Health Study 2012 \(scottishtrans.org\)](https://www.scottishtrans.org/)

²⁹ [GP survey reveals health and healthcare inequalities of trans and non-binary adults | University of Cambridge](https://www.cambridge.ac.uk/)

³⁰ [Health needs assessment of lesbian, gay, bisexual, transgender and non-binary people \(scot.nhs.uk\)](https://www.scot.nhs.uk/)

³¹ [Trans Mental Health Study 2012 \(scottishtrans.org\)](https://www.scottishtrans.org/)

saying they were subject to inappropriate curiosity and 18% also said they avoided treatment for fear of discrimination or intolerant reactions.³²

This fear of discrimination is also shown by ‘LGBT in Scotland – Health Report’ findings which found almost two in five trans people (37%) have avoided healthcare treatment for fear of discrimination.³³

Legislation, Guidance and Access to Services

Scottish Trans ‘Non-binary people’s experiences in the UK’ study asked non-binary people about their experiences using services including: LGBT services, Police, GP, sexual health services, mental health services, general NHS services (i.e. hospital appointments), education (i.e. school, college, university), other public services, and charities/voluntary organisations.³⁴

The study found the most common negative experiences were 80% of respondents feeling the need to pass as male or female to be accepted, and 67% of respondents saying that they had the wrong name or pronoun used for them by mistake. 49% of respondents had been asked questions about non-binary people that made them feel like they were having to educate someone, 42% had terms used to describe gender associated body parts that made them feel uncomfortable, and 40% had heard that non-binary people were “not normal”. People also reported experiencing harassment or discrimination, with 34% having had the wrong name or pronoun used for them on purpose, 34% having experienced silent harassment, and 13% having been made fun of or called names for being non-binary.

They found in general non-binary people did not feel comfortable sharing their identities with services. Research showed that non-binary people felt comfortable sharing their identities with LGBT services, where 72% of respondents ‘always’ or ‘usually’ felt comfortable sharing.

The service where people felt the least comfortable being open about being non-binary was with the police, with 69% of respondents saying they ‘never’ felt comfortable sharing their identity.

Some responses noted that for access to services their identity wasn’t always relevant, or they were not out generally so didn’t feel comfortable notifying the service. Some people felt it was easier to present as a binary trans person when accessing services indicating that there is a perception amongst some non-binary people that binary trans identities are better understood, and that binary trans people are treated better by services.

Respondents were asked whether they had experienced physical and sexual violence when accessing services. 90% of respondents had not experienced any physical or sexual violence whilst accessing services due to being non-binary. Physical intimidation and sexual harassment were the most common things experienced by respondents, with 6% reporting having experienced these.

³² [LGBT Survey - Research Report - July 2018](#)

³³ [LGBT in Scotland – Health Report \(stonewallscotland.org.uk\)](http://stonewallscotland.org.uk)

³⁴ [Non-binary-report.pdf \(scottishtrans.org\)](#)

Respondents' experiences of physical and sexual violence were significantly worse in public spaces. 32% had experienced physical intimidation and threats, and 35% had experienced sexual harassment because of their non-binary identity. 13% reported being sexually assaulted due to being non-binary.

Respondents were asked about inclusion and visibility and 65% of respondents felt that services were never inclusive of non-binary people through their use of imagery, language and information, with only 1% saying they felt they were always inclusive, and 2% saying they were usually inclusive. This lack of inclusion meant many were less likely to try to access services, and the vast majority felt their emotional wellbeing was impacted, with 84% feeling their gender identity wasn't valid, 83% feeling more isolated and excluded, 76% feeling that they had lower self-esteem and 65% feeling they had poorer mental health due to the lack of representation in services.

Trans and non-binary workers are particularly under-represented in the workforce.³⁵ At every stage of employment, many trans people face discrimination, bullying, harassment, prejudiced views and stereotyping, including during recruitment processes.³⁶

This has a negative impact on their employment prospects.³⁷ Stonewall Scotland's report highlighted that more than half of trans people (58%) have deliberately hidden or disguised their identity at work for fear of discrimination and one in fifteen trans employees (6%) has been physically attacked by a colleague or customer.³⁸

Barriers and challenges to the inclusion of trans employees include lack of knowledge by employers and fellow employees, insufficient line manager confidence, stigma, practical considerations (e.g. toilet facilities, uniforms), lack of support and flexible policies.³⁹ Barriers to accessing employment include feeling unable to apply to jobs because of fears of prejudice, application forms excluding non-binary identities, difficulties obtaining references and proof of qualification matching gender and new name, lack of awareness and transphobia from interview panels and feeling unable to be open about trans identity when applying for jobs.⁴⁰

The Group were clear on their support of services asking sex/gender questions, while also providing an option for non-binary people to be recorded. The barriers created by asking unnecessary mandatory sex and gender questions are significant as they could force trans or non-binary people to disclose their status, or go against their gender identity if posed by binary questioning.⁴¹ This view is supported by Scottish Trans 'Non-binary people's experiences in the UK' report.⁴²

³⁵ [Listen carefully: transgender voices in the workplace \(researchgate.net\)](https://www.researchgate.net/publication/354111111)

³⁶ [Inclusion at work: Perspectives on LGBT+ working lives \(cipd.org\)](https://www.cipd.org/insights/2021/08/inclusion-at-work-perspectives-on-lgbt-working-lives)

³⁷ [Trans People and Work in Scotland \(lgbthealth.org.uk\)](https://www.lgbthealth.org.uk/trans-people-and-work-in-scotland)

³⁸ [Stonewall Scotland, Work Report - final.cdr](https://www.stonewallscotland.org.uk/work-report-final)

³⁹ [Supporting trans employees in the workplace | Acas](https://www.acas.org.uk/resources/articles/supporting-trans-employees-in-the-workplace)

⁴⁰ [Trans People and Work in Scotland \(lgbthealth.org.uk\)](https://www.lgbthealth.org.uk/trans-people-and-work-in-scotland)

⁴¹ [Non-Binary Working Group Report and Recommendations March 2022 \(www.gov.scot\)](https://www.gov.scot/resources/consultations-petitions-and-statements/non-binary-working-group-report-and-recommendations-march-2022)

⁴² [Non-binary-report.pdf \(scottishtrans.org\)](https://www.scottishtrans.org/non-binary-report.pdf)

The Group also recognised the lack of non-binary legal recognition in Scotland. There is a lack of research on this subject, and the group noted that further work must be done to investigate the need for non-binary legal recognition, how it might work, and the necessary evidence to make informed decisions.⁴³

Scottish Trans ‘Non-binary people’s experiences in the UK’ report found the majority of respondents (64%) would like to be able to have their legal gender/sex recorded as something other than ‘male’ or ‘female’ on documents.⁴⁴

Internationally most countries around the world only legally recognise male and female on official documents, such as passports, licences, birth certificates, and other official identification documents. However, in recent years, some countries, provinces, states, and jurisdictions have begun offering non-binary and intersex individuals the choice to request a change to official documents. Usually, official documents will be marked with an “X” gender marker (rather than “M” or “F” for male or female).⁴⁵

The focus group supported the idea of gender/sex recorded as something other than ‘male’ or ‘female’ on documents, but also questioned the need for gender information in documentation generally, noting that companies and government bodies in many instances do not need to know people’s gender to provide services. They also had concerns about security, as whilst they would like to see updated options for gender/sex particularly in government documentation. If, for example, a digital identity service was created with these options, they would want to ensure sufficient safeguards were in place so non-binary people would not be put at risk, according to the focus groups held to discuss the action plan.

Additional security concerns were raised by focus group members around access to proposed digital services. If an individual’s gender status is recorded, they said there would need to be protections around this, and it would need to be that individual’s choice on how this would be shared, even with family members and next of kin.

The focus group also discussed the NHS data systems including the proposed review of Community Health Index (CHI) numbers⁴⁶ in the plan. The key issue was with the binary gendered system, and the assumption through this system that all patients are cisgender.

The focus group were clear the system needs to be adaptive to the patient’s needs, as these issues do not only affect non-binary people, but trans and cisgender people too.

The Group also noted the gendering of law creates barriers for non-binary people, as it makes it less clear that they are able to access key legal rights and protections, which can make it harder for non-binary people to address discrimination and harassment in the workplace and in services. The uncertainty in the law also makes

⁴³ [Non-Binary Working Group Report and Recommendations March 2022 \(www.gov.scot\)](https://www.gov.scot)

⁴⁴ [Non-binary-report.pdf \(scottishtrans.org\)](https://scottishtrans.org)

⁴⁵ [Legal recognition of non-binary gender by country | Equaldex](https://www.equaldex.org)

⁴⁶ The Community Health Index (CHI) is a population register, which is used in Scotland for health care purposes. The CHI number uniquely identifies a person on the index.

employers and service providers uncertain about their rights and responsibilities towards non-binary employees and service users.⁴⁷

Data and Research

There is a lack of data on trans and non-binary people in Scotland. Historically there have been no non-binary response options in Scottish Government data collection including the core surveys (Scottish Health Survey, Scottish Household Survey, Scottish Crime and Justice Survey) and the Scottish Census.

Data on trans and non-binary people including basic information such as populations, can be estimated through reports and surveys from disparate sources, however a clear picture is difficult to determine without population-level surveys. The NRS conducted a study which found a respondent need for a non-binary sex question as part of the 2022 Scotland Census.⁴⁸

The study found that along with age, the sex variable is a vital input to population estimates and household projections which are used by central and local government to inform resource allocation, target investment, and carry out service planning and delivery.

This need for data also extended to gender identity. They found that reliable data sources on the size and locality of the trans population in Scotland is required to inform policy developments that will reduce inequalities experienced by trans people. The data would also be used to design and enhance public services to meet specific needs, particularly in relation to the provision of health services.

Feedback showed that since Scotland's trans population seems to be small and spread variably across the country, the census would be a primary source to gather comprehensive, accurate information on the population.

We have started to improve our data collection. A new question on trans status or history was added to the Scotland's Census 2022.⁴⁹ National Records of Scotland (NRS) will use responses to this question to produce estimates on the number of non-binary people in Scotland. As part of their user consultation on census outputs NRS proposed outputs classifications for the trans status or history variable.⁵⁰

Plans for outputs include making data on trans status or history available through pre-defined tables and the flexible table builder. The flexible table builder will be the main tool we use to release 2022 Census outputs. It will enable users to create their own data tables. This will increase the range of census data available to users. statistical disclosure control methods will be applied through the flexible table builder

⁴⁷ [Non-Binary Working Group Report and Recommendations March 2022 \(www.gov.scot\)](http://www.gov.scot)

⁴⁸ [Scotland's Census 2021 - Sex and Gender Identity Topic Report \(scotlandscensus.gov.uk\)](http://scotlandscensus.gov.uk)

⁴⁹ [Scotland's Census 2022 paper questionnaires | Scotland's Census \(scotlandscensus.gov.uk\)](http://scotlandscensus.gov.uk)

The question used in Scotland's Census 2022 was "Do you consider yourself to be trans or have a trans history?" and could be answered by "Yes" or "No". There was a free-text option provided where respondents who chose "Yes" could specify whether they identified as non-binary or another trans identity. This question was voluntary and asked to people aged 16 or over.

⁵⁰ [Scotland's Census 2022: Outputs Consultation spreadsheet | Scotland's Census \(scotlandscensus.gov.uk\)](http://scotlandscensus.gov.uk)

to protect individuals and households. All planned outputs are subject to our disclosure control procedure and the detail in the variable may be restricted.

NRS also plan to produce an analytical report on the trans status or history question, this will allow more detailed analysis on this topic compared to the standard outputs. More information on proposed outputs from the 2022 census can be found on the Scotland's census website.⁵¹ Using data from Scotland Census 2022, we hope to be able to provide estimates on the number of non-binary people in Scotland by Summer 2024.

The recommended questions from the Chief statistician's guidance have been widely implemented across Scottish Government surveys and data collections, including in the Scottish Household Survey, the Scottish Health Survey and the Scottish Crime and Justice Survey.⁵² The data we gather from these collections will greatly enhance our evidence base for the non-binary population.

The focus group looked at the proposed actions and were supportive of the updates to the frameworks noting concern with intersectional evidence gaps and the need to do further research. They were also supportive of plans to publish guidance for public bodies, including recommended questions to ask, to gather information on sex and gender, noting that they did not like the option 'prefer not to say' when asked these questions. With a specific ask on gender identity being preferred.

Children and Young People

The key data and research which affects children and young people has been summarised below under the 'age' protected characteristic section.

It is useful to summarise the asks from the Group in this section. Their recommendation was for the Scottish Government to embed the needs of non-binary children, and all LGBTQI+ children, into the delivery of a Bairns' Hoose in Scotland.⁵³

The Scottish Government's vision of "Bairns' Hoose" is that "all children in Scotland who have been victims or witnesses to abuse or violence, as well as children under the age of criminal responsibility whose behaviour has caused significant harm or abuse, will have access to trauma-informed recovery, support and justice."⁵⁴

The Group noted that non-binary children, and indeed all LGBTQI+ children, can face specific barriers when accessing such crisis support including:

- Not having transphobia or rejection from family members being counted as types of violence and abuse
- Services disclosing a child's trans or non-binary status against their wishes when sharing information between professionals and parents/guardians, which may place children at greater risk

⁵¹ [Census outputs consultation | Scotland's Census \(scotlandscensus.gov.uk\)](https://scotlandscensus.gov.uk)

⁵² [Sex, gender identity, trans status - data collection and publication: guidance - gov.scot \(www.gov.scot\)](https://www.gov.scot)

⁵³ [Non-Binary Working Group Report and Recommendations March 2022 \(www.gov.scot\)](https://www.gov.scot)

⁵⁴ [Bairns' Hoose - Scottish Barnabus: vision, values and approach - gov.scot \(www.gov.scot\)](https://www.gov.scot)

- Encountering services and support, such as temporary foster care, that are poorly equipped to understand and support LGBTQI+ children, sometimes furthering their experiences of transphobia, homophobia, or biphobia.

The focus groups said more should be done on LGBT inclusive education as resources are available but they aren't mandatory to teach. They said there is little specific learning on non-binary people so this should be expanded on, and teachers should have the necessary training to understand the needs of these children. They noted that further work needs to be done to ensure resources are accessible to all those who need them.

Finally, they noted that evaluation of the implementation of LGBT inclusive education with non-binary pupils would be beneficial, with specific care given to safeguarding and the impact of implementation upon the understanding and opinions of their cisgender peers towards non-binary pupils.

Sport

There is a significant lack of research on non-binary experience and inclusion in sport. Where there is any discussion of the experiences of non-binary individuals in sport, this tends to come under a broader LGBTQI+ umbrella.

Research by Scottish Trans indicates that 54% of trans people feel excluded from particular sports, or have at some point stopped participating in a sport as a result of discrimination around their gender identity.⁵⁵ 46% of trans people active in sport report negative experiences over the preceding 12 months when asked.⁵⁶

Almost every third respondent (31%) felt excluded from certain sports due to sexual orientation or gender identity, a higher number than the EU total (19%). This is particularly true of football, rugby and swimming. Transgender people feel excluded more frequently overall (58%).⁵⁷

The majority of respondents to the Outsport Scotland Report believe that homophobia and transphobia are each a problem within sport, at 94% (homophobia) and 94% (transphobia) respectively. Homophobic and transphobic language use is widespread in sport in general, as well as in leisure activities other than sports and in professional and educational contexts.⁵⁸

Leap Sports Scotland set out that:

In the context of their own chosen sport, homophobic or transphobic language is witnessed by 45% of active sportspeople, 88% of whom feel attacked or discriminated against. Homophobic and transphobic language mainly occurs in team sports (62%) and at higher performance levels (58%).⁵⁹

⁵⁵ [Non-binary-report.pdf \(scottishtrans.org\)](#)

⁵⁶ [Transgender-specific-companion-report.pdf \(equality-network.org\)](#)

⁵⁷ [Outsport Scotland Report \(leapsports.org\)](#)

⁵⁸ [Outsport Scotland Report \(leapsports.org\)](#)

⁵⁹ [Sexual Orientation, Gender Identity and Sport](#)

The Research shows that trans and non-binary people experience discrimination at all levels, from grassroots and community sports to professional. LEAP Sports Scotland found that binary gender norms, stereotypes and presumptions that characterise many sporting communities can be a barrier, not just for non-binary and other gender diverse people, and that creating more gender-neutral or mixed teams and training groups could help to mitigate some of the gender norms and presumptions that often characterise both men's and women's sporting communities.⁶⁰

Scottish Trans research echoes this and suggests sporting bodies, and individual sports clubs, need to have clear and accessible policies about the inclusion of non-binary people within their activities, and sporting bodies, and individual sports clubs, should reduce the gender segregation of sports where this is not necessary, or take steps to ensure that non-binary people are able to participate in sports where men and women compete separately.⁶¹

Some research shows that whilst trans and non-binary people share many of the same barriers to accessing sport including the misuse of preferred pronouns and names by coaches and teammates, feeling uncomfortable wearing gendered uniforms and a lack of gender-neutral spaces, some further barriers to non-binary participation can come from the lack of mixed gender sport.

As non-binary individuals' gender identity sits outside of gender binaries that most sports are organised by, this makes it particularly challenging to participate in sport and physical activity when there is a lack of mixed-gender sport options available.⁶²

Regarding competitive sport, the research is limited on non-binary participation. However, the Guidance for Transgender Inclusion in Domestic Sport was developed following a significant and robust consultation process which involved investigating the views, knowledge, and experiences of hundreds of people with a lived experience in sport, including transgender people. This included those involved from grassroots to elite sport, and working in a variety of roles such as sports competitor, administrator, inclusion and equality officers, volunteer, coach, and sport scientist, academic or medical personnel.

To educate people on trans and non-binary needs and ensure further inclusion Scottish Trans have recommended that sporting bodies, and individual sports clubs, need to have clear and accessible policies about the inclusion of non-binary people within their activities. They should also reduce the gender segregation of sports where this is not necessary, or take steps to ensure that non-binary people are able to participate in sports where men and women compete separately.⁶³

The focus group participants echoed this stating that any changes need to take a top down bottom up approach, where trans inclusive guidance and mentality is

⁶⁰ [Non-Binary Inclusion in Sport \(leapsports.org\)](https://leapsports.org/)

⁶¹ [Non-binary-report.pdf \(scottishtrans.org\)](https://scottishtrans.org/non-binary-report.pdf)

⁶² [That's So Gay: LGBTQ+ Inclusivity and Education in Youth Sport Through Web Based Content \(bgsu.edu\)](https://bgsu.edu/that-s-so-gay-lgbtq-inclusivity-and-education-in-youth-sport-through-web-based-content)

⁶³ [Non-binary-report.pdf \(scottishtrans.org\)](https://scottishtrans.org/non-binary-report.pdf)

implemented at a competitive level which can then filter down to grass roots. They noted that grassroots sports cannot move forward if they are looking up to heroes and role models who don't have to follow the same rules.

Age

The UK Government's National LGBT Survey⁶⁴ in 2018 found that more than two-thirds of respondents (68.1%) were under the age of 35. The survey shows that a higher proportion of young people identify as non-binary (61.1% of the respondents identifying as non-binary were in the 16-17 and 18-24 age groups, compared to 4.7% in the 45-54 age group).

Data from the Census 2021 for England and Wales⁶⁵ showed that non-binary people in England and Wales were more likely to be younger, with more than 4 in 5 non-binary people being aged between 16 and 34 years (85%).

Due to the lack of evidence and data on older trans and non-binary people in Scotland most of this section focuses on the experiences of young people. There is also a lack of data on age and the participation in decision-making and sport therefore these themes have not been included in this section.

Healthcare

The Group noted through their lived experience, group meetings and community consultation that the view was that current transition-related healthcare system is not fit for purpose, with key issues being the “long waiting times, arbitrary assessment criteria, negative experiences at Gender Identity Clinics, and the requirement that all trans healthcare be accessed via specialist clinics and psychiatric assessments.”⁶⁶

Health Care Needs Assessment of Gender Identity Services Report from 2018 states that whilst waiting times for adult services had decreased during the studied time period, waiting times for young people had increased over the same time period.⁶⁷ When research was conducted in 2016 reported waiting times for gender identity services were 260 days for adults and 314 days for young people. As waiting times have significantly lengthened since then, the impact on trans and non-binary people has likely worsened.

The report found that these changes in patient population, especially the younger trans and non-binary populations, were down to better service provision, positive changes in societal attitudes, and greater access to information on transgender issues through the internet and social media, giving more trans people the vocabulary and confidence to self-identify. Service providers and other stakeholders view this change as the trans population feeling able to present to services, rather than an increase in the underlying number of trans people.⁶⁸

⁶⁴ [National LGBT Survey 2018](#)

⁶⁵ [Population and household estimates, England and Wales - Office for National Statistics \(ons.gov.uk\)](#)

⁶⁶ [Non-Binary Working Group Report and Recommendations March 2022 \(www.gov.scot\)](#)

⁶⁷ [Health Care Needs Assessment of Gender Identity Services Report](#)

⁶⁸ [Health Care Needs Assessment of Gender Identity Services \(scotphn.net\)](#)

Difficulties in accessing services have been consistently highlighted by trans representative stakeholder organisations, specifically for young people (LGBT Youth and Transparentsees). There is only one gender identity service which accepts referrals for under 17s in Scotland. This is NHS Greater Glasgow and Clyde’s Young Person’s Service at Sandyford. Sandyford accepts referrals from all Health Boards areas.

LGBT Youth Scotland’s ‘Life in Scotland’ report in 2018 showed that the majority of LGBT young people felt supported by health services. However, overall, trans and non-binary young people were the least likely to feel supported by services.⁶⁹

Proportion of young people who felt supported by Health Services

	A&E	Gender identity Clinics	Mental health clinics	Sexual health clinics	GP
Transgender	66%	80%	63%	75%	68%
Non-binary	81%	65%	67%	75%	57%
Gay/lesbian women	94%	92%	88%	94%	80%
Gay men	94%	95%	86%	98%	86%
Bisexual women	93%	92%	81%	85%	81%
Bisexual men	86%	78%	74%	94%	89%
LGBT overall	86%	84%	74%	83%	76%

Regarding mental health, LGBT Youth Scotland’s ‘Life in Scotland for LGBT Young People’ report in 2022 states that “[t]here was a difference found between older and younger participants, with 64% of 18+-year-olds believing they have enough information about mental health, whereas only 51% of under-18s believe they have enough information”.⁷⁰

In this report, 38% of participants identified as neurodivergent but this varied between transgender and cisgender participants.⁷¹ Only 25% of cisgender participants identified as neurodivergent, compared to 52% of trans participants. Autistic people have an increased gender variance rate, of over seven times that of the general population, meaning they are more likely to identify as transgender, including non-binary.⁷²

The focus groups also noted that participants had experiences where young people had been misgendered when using mental health services.

The benefit of providing timely access to healthcare is well established. For example, young people who are struggling with their gender identity are at greater risk of self-

⁶⁹ [Life in Scotland for LGBT Young People, FINAL March 2018.cdr \(lgbtyouth.org.uk\)](https://lgbtyouth.org.uk/life-in-scotland-for-lgbt-young-people-final-march-2018-cdr)

⁷⁰ [LGBTYS LiS e-use \(lgbtyouth.org.uk\)](https://lgbtyouth.org.uk/lgbtys-lis-e-use)

⁷¹ [LGBTYS LiS e-use \(lgbtyouth.org.uk\)](https://lgbtyouth.org.uk/lgbtys-lis-e-use)

⁷² [Gender Variance Among Youth with Autism Spectrum Disorders: A Retrospective Chart Review | Transgender Health \(liebertpub.com\)](https://www.liebertpub.com/doi/10.1089/trans.2019.0001)

harm as well as at a greater risk of lower life satisfaction, with two in five LGBT people aged 18-24 (41%) having harmed themselves in the last year.⁷³

This is further evidenced by a review of prevalence of mental health problems in trans youth, which included 15 studies from 2011-2016, which found that trans young people have increased rates of depression, suicidality and self-harm, and eating disorders compared to their peers.⁷⁴

Generally, age and access to health services also interacts closely with disability (addressed below) which may put older people at greater disadvantage with 46% of pension age adults identifying as disabled compared to 8% children and 19% of working age adults.⁷⁵

Greater literature and evidence base is required to fully evidence age-specific barriers or specific challenges to accessing healthcare for different age groups. It is noted much of this will be intersectional with other protected characteristics. Nonetheless, available evidence and literature clearly indicates the potential distress a lack of timely access to a healthcare services can have on both young people, as well as adults.

Legislation, Guidance and Access to Services

The Group's report highlights that a key issue affecting LGBTQI+ young people is homelessness. Young people are at particular risk of homelessness as evidenced by Stonewall which found that 18% of LGBT people had experienced homelessness at some point in their lives, rising to 24% of trans people.⁷⁶

The Albert Kennedy Trust (AKT) found that 24% of homeless young people in the UK are LGBT, and that 69% of them will be homeless due to familial rejection, abuse and violence.⁷⁷

Young people can experience exclusion from services if they are determined by a local authority as being 'intentionally' homeless, or leaving home on their own volition. The Albert Kennedy Trust (AKT) LGBT Youth Homelessness Report found that trans young people were more likely to experience numerous forms of abuse from family members before becoming homeless, with 64% of those surveyed saying they were stopped from expressing their LGBT identity by family members before becoming homeless.⁷⁸

When accessing homelessness services AKT reported that 43% of trans young people said they had experienced discrimination or harassment due to being

⁷³ [Stonewall LGBT in Scotland Health Report](#)

⁷⁴ [The Mental Health of Transgender Youth: Advances in Understanding - PubMed \(nih.gov\)](#)

⁷⁵ [Family Resources Survey: financial year 2019 to 2020 - GOV.UK \(www.gov.uk\)](#)

⁷⁶ [LGBT in Britain Home and Communities.pdf \(stonewall.org.uk\)](#)

⁷⁷ [LGBT Youth Homelessness: A UK National Scoping of Cause, Prevalence, Response, and Outcome](#)

⁷⁸ [AKT LGBT Youth Homelessness Report](#)

transgender from a local authority or charity. 40% also said they experienced misgendering or deadnaming.⁷⁹

LGBT Youth Scotland's 'Life in Scotland for LGBT Young People' report presented the results of a 2022 survey of LGBT young people aged 13-25. It highlighted the significance of LGBT related matters for care experienced young people, showing that 8% of participants were care experienced.⁸⁰

It revealed that 7% of survey participants who came out to their families left home under negative circumstances, with 6% experiencing homelessness, and 1% becoming care experienced. For trans young people, 10% left home under negative circumstances, and 2% became care experienced.⁸¹

LGBT Youth Scotland's Recommendations for the Care Sector found that 43% of care experienced young people said they had experienced homophobia, biphobia or transphobia in a care setting, and 78% of people said they felt staff and carers didn't have the knowledge to support them.⁸²

Data and Research

The 2022 Scottish Census includes a new question which offers a textbox for people to describe their trans status, and similar questions will be used in Scottish Government core surveys. This textbox enables respondents to say that they are non-binary.

Whilst this update to the census and other core surveys will gather overarching data on trans and non-binary people, it is important to acknowledge that there will still be gaps. The Group noted whilst the addition of the text box is a step forward, further qualitative research approaches are still required as there is no specific non-binary question. The trans status questions also only applies to 16+ population resulting in an evidence gap for younger non-binary people.

This gap in evidence is shown by the ages of the responders to the UK LGBT Survey in 2018. Those aged under 35 were more likely to identify as trans men (26%) than those aged 35 or above (10%). Trans respondents aged under 35 were also more likely to identify as non-binary (57%) than respondents aged 35 or above (36%). In contrast, trans respondents aged 35 or above were three times as likely to identify as trans women (54%) than those aged under 35 (17%).⁸³

Children and Young People

The Group stated that non-binary children, and indeed all LGBTQI+ children, can face specific barriers when accessing crisis support.⁸⁴ These include:

⁷⁹ [AKT LGBT Youth Homeslessness Report](#)

⁸⁰ [LGBTYS LiS e-use \(lgbtyouth.org.uk\)](#)

⁸¹ [LGBTYS LiS e-use \(lgbtyouth.org.uk\)](#)

⁸² [LGBTYS Create Safe Environments for LGBT People in Care Settings \(lgbtyouth.org.uk\)](#)

⁸³ [National LGBT survey: research report \(publishing.service.gov.uk\)](#)

⁸⁴ [Non-Binary Working Group Report and Recommendations March 2022 \(www.gov.scot\)](#)

- Not having transphobia or rejection from family members being counted as types of violence and abuse.
- Services disclosing a child's trans or non-binary status against their wishes when sharing information between professionals and parents/guardians, which may place children at greater risk.
- Encountering services and support, such as temporary foster care, that are poorly equipped to understand and support LGBTQI+ children, sometimes furthering their experiences of transphobia, homophobia, or biphobia.

In education, the recommendations of the Group were shaped by a paper noting LGBT Youth Scotland's survey results about non-binary experiences, which was sent out to 20 schools they work with, largely in Edinburgh and Glasgow.

They found that non-binary young people are often required to be recorded as male or female on SEEMiS which is a considerable barrier to them participating equally at school and being perceived as their authentic selves.⁸⁵

They also found that non-binary young people's identities are poorly understood by teachers and staff at schools, as well as by their peers, and non-binary young people are not always well-represented in information and resources aimed at LGBT inclusion.

This evidence of lack of support within education settings is further evidenced by LGBT Youth Scotland's research which showed that:

- 82% of transgender young people had experienced bullying in school on the grounds of being LGBT
- 68% of trans young people who had experienced bullying said that it negatively affected their educational attainment
- Only 24% of LGBT young people would feel confident reporting transphobia in school
- 27% of trans young people left education as a result of homophobia, biphobia or transphobia in the learning environment.⁸⁶

Research by the UK Government in 2016 on 'Inequality among lesbian, gay bisexual and transgender groups' in the UK found there was a lack of robust evidence on education issues in relation to transgender students and gender identity.

Whilst there was a lack of evidence, the data available showed homophobic, biphobic and transphobic bullying being a major problem in schools and in further and higher education, with heterosexism and heteronormativity continuing to be prevalent in educational institutions reinforcing feelings of alienation among LGBT students and leaving their specific support needs largely unaddressed.

They found little reliable evidence on the extent of perceived or expected discrimination, and little reliable evidence on inequalities between groups. However,

⁸⁵ SEEMiS is the system used by schools to monitor attendance and store pupil data.

⁸⁶ [LGBTYS LiS e-use \(lgbtyouth.org.uk\)](https://lgbtyouth.org.uk)

there was evidence that expectations of discrimination are higher amongst transgender people than LGB people.⁸⁷

Disability

Due to the lack of evidence and data on disability and non-binary people, we have not included the themes of participation in decision-making, data and research, sport and children and young people in this section. There is also a lack of intersectional evidence, for example on the experiences of young disabled non-binary people or disabled people from racialised minorities.

Healthcare

In the UK Government LGBT Survey in 2018, a third (33%) of the 108,100 respondents indicated that they had a disability, whereas 14% of non-trans respondents said they did.⁸⁸

The Group noted that access to GIC treatment pathways for non-binary people can be considered by healthcare professionals as being more complex meaning that they experience greater difficulties and delays in accessing treatment.⁸⁹

This difficulty in access is experienced more by disabled people. 98% of respondents to the Trans Lives Survey 2021 described the transition-related healthcare available on the NHS as not completely adequate, with 47% responding that it is “not at all” adequate.⁹⁰ A greater proportion of disabled trans people reported inadequacy of service. The study also found that disabled trans people are more likely to experience delays, with 93% having done so compared to 85% of non-disabled people.

Potential barriers to services in Scotland included the physical accessibility of GICs and geographic proximity for service users. It may be that such experiences may have changed as a result of the COVID-19 pandemic, where remote consultations have become more routine. Conversely, physical barriers addressed by increasing use of remote or online consultation platforms may present accessibility challenges for people with conditions such as anxiety or deaf/hard of hearing individuals.⁹¹

This lack of understanding of trans and non-binary people’s healthcare is also evidenced in primary care settings by the LGBT Foundation Primary Care Survey Report. This⁹² research was on LGBT people’s experiences of primary care services to determine what access to general practice, dentistry, pharmacy and optometry looks like for the community. Whilst this study was centred on the experiences of

⁸⁷ [Inequality among lesbian, gay bisexual and transgender groups in the UK: a review of evidence \(publishing.service.gov.uk\)](#)

⁸⁸ [National LGBT survey: research report \(publishing.service.gov.uk\)](#)

⁸⁹ [Non-binary-GIC-mini-report.pdf \(scottishtrans.org\)](#)

⁹⁰ [Trans+Lives+Survey+2021.pdf \(squarespace.com\)](#)

⁹¹ [Health Care Needs Assessment of Gender Identity Services \(scotphn.net\)](#)

⁹² [Primary Care Survey Report 2017](#)

LGBT people in the Greater Manchester area, the findings present a wider look at the experiences of people within the community interacting with healthcare.

The study found LGBT people often receive inappropriate treatment and advice from primary care services due to a lack of knowledge about the ways in which health needs of LGBT patients differ from the needs of heterosexual and cisgender patients.⁹³

The report found that disabled LGBT people and people from racialised minorities were more likely to experience discrimination based on their sexual orientation or gender identity compared to the rest of the LGBT community. These respondents were also less likely to feel their GP met their needs.⁹⁴

Legislation, Guidance and Access to Services

The Trans Lives Survey 2021 said that 27% of all respondents reported that they have experienced homelessness at some point in their lives, with a higher proportion (36%) of disabled people having experienced homelessness, compared to 21% of non-disabled people.⁹⁵

This study also found that 40% of respondents experienced transphobia when seeking housing. More disabled people experienced this transphobia, with half of those surveyed who were disabled having this experience when trying to access housing (compared to 28% of non-disabled people).⁹⁶

The focus group said it is important to note significant numbers of the LGBTQI+ community who are also disabled when developing guidance. Guidance needs to be accessible for people with sensory impairments, for neurodivergent people and for people with learning disabilities.

The Group found that building design was a common barrier for non-binary people accessing services, and highlighted an example of the provision of more gender-neutral toilets can benefit disabled people with carers of a different gender, as well as single parents with children of a different gender.⁹⁷

The focus group supported a call for evidence to seek evidence and examples of barriers to accessing public spaces, but were concerned about bad faith submissions and the call not reaching the people who need to be involved.

LEAP Sport Scotland's 'Non-Binary Inclusion in Sport' report highlights the intersectional issue of services not providing gender neutral facilities as toilets are often located inside gender-segregated changing rooms meaning people need to enter these areas to go to the toilet.⁹⁸ Often if toilets exist separate from the

⁹³ [Primary Care Survey Report 2017](#)

⁹⁴ [LGBT Foundation Report](#)

⁹⁵ [Trans+Lives+Survey+2021.pdf \(squarespace.com\)](#)

⁹⁶ [Trans+Lives+Survey+2021.pdf \(squarespace.com\)](#)

⁹⁷ [Non-Binary Working Group Report and Recommendations March 2022 \(www.gov.scot\)](#)

⁹⁸ [Layout 1 \(leapsports.org\)](#)

changing rooms, these are usually labelled either female or male, or specifically intended for disabled users.

They also noted that creating gender-neutral single occupancy changing rooms that are accessible for all would assist non-binary and disabled people's inclusion.

The Equality Network's 'Tackling Transphobia in Sport' report states that in order for sports and leisure facilities to be more trans inclusive they should clearly describe their changing room provisions, stating if there are gender neutral changing areas and what level of cubicle privacy users can expect within gender specific changing areas.⁹⁹

Marriage and Civil Partnership

There is very limited data on trans people with the protected characteristic of marriage and civil partnership, not only in Scotland but across the world, and even less on non-binary people's experiences. We are therefore unable to review existing data in relation to the themes of the action plan in this section.

Scottish Trans' 'Non-binary people's experiences in the UK report' found that 14% of respondents mentioned that non-binary people also needed to be covered in anti-discrimination and equality legislation.¹⁰⁰ In particular, people mentioned the Equality Act 2010 being extended, and marriage laws being changed to reflect that someone who isn't a man or a woman may be getting married.

It is important to acknowledge that non-binary people do not have legal recognition in Scotland and the UK as a whole, meaning non-binary people need to choose 'male' or 'female' on some documentation including marriage certificates.

Religion or Belief

There is a lack of research on non-binary people with the protected characteristic of religion and belief. We are therefore unable to review existing data in relation to the themes of the action plan in this section.

Given the lack of information on trans and non-binary people's religion or beliefs in nationwide research, such as the census, some information can be taken from more localised studies to inform how trans and non-binary people may experience religion or belief.

Scottish Trans found that the majority of the respondents to their 'Non-binary people's experiences in the UK' report said that they had no religion. This is significantly higher than the general population, with only 25% of people in England and Wales and 37% of people in Scotland saying that they had no religion.¹⁰¹

They found that 22% of respondents described their religion or belief as 'Other', including 13% of respondents who described their religion or belief as 'Pagan', and

⁹⁹ [Transgender-specific-companion-report.pdf \(equality-network.org\)](#)

¹⁰⁰ [Non-binary-report.pdf \(scottishtrans.org\)](#)

¹⁰¹ [Non-binary-report.pdf \(scottishtrans.org\)](#)

4% who described themselves as ‘Buddhist’ This compares to 0.4% of the population of England and Wales, and 0.3% of the population of Scotland who selected ‘Other’ religions or beliefs, and 0.4% of the population of England and Wales, and 0.2% of the population of Scotland who describe their religion as ‘Buddhist’.

The LGBT Youth Scotland ‘Life in Scotland’ survey found that 76% of participants stated that they do not have a religion or faith, 9% were Christian, 1% were Muslim, and 7% had another religion or faith not listed in the question. This data covers all respondents to the survey not just those who identify as trans or non-binary.¹⁰²

Sexual Orientation

Of the 1,160 self-selected trans people from Scotland who responded to the UK LGBT Survey in 2018, around a third (32.1%) identified as bisexual, a fifth (22%) said that they were gay or lesbian, 13.6% identified as pansexual, and 4.9% as queer. 10.4% said that they were heterosexual. 5.5% said that they did not know, or preferred not to say. The methodology used means respondents are drawn from a non-representative sample of LGBT people across the UK, and therefore it is not possible to generalise these findings to the Scottish trans population as a whole.¹⁰³

Of the 530 self-selected respondents to the 2012 Scottish Trans survey¹⁰⁴ who answered the question about sexual orientation, around a quarter identified as bisexual (27%) and another quarter identified as queer (24%). A fifth (20%) identified as straight or heterosexual. Again, this was not a random sample and so findings cannot be assumed to be representative of the trans population as a whole.

Trans respondents were much less likely to identify as gay or lesbian (23%) than cisgender respondents (68%), but much more likely to identify as bisexual (32%), pansexual (14%), ‘other’ (7%) or queer (5%). 4% reported that they did not know their sexual orientation, compared to 1% of cisgender respondents. 9% of trans respondents identified as heterosexual.¹⁰⁵

There is less data on people who identify as non-binary and how they describe their sexuality. Scottish Trans’ Non-Binary Report¹⁰⁶ asked respondents how they would describe their sexual orientation. Most described themselves as queer (52.7%), pansexual (31.6%), bisexual (27.9%), or other (18.4%), which includes demisexual, panromantic or undefined. The sexuality respondents least identified with was heterosexual (4.7%).

Sex

As non-binary people’s identities fall outwith the binary ‘sex’ categories as set out in the Equality Act 2010, there is a limited scope for looking at how sex intersects with

¹⁰² [LGBTYS LiS e-use \(lgbtyouth.org.uk\)](https://lgbtyouth.org.uk)

¹⁰³ [National LGBT survey: research report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

¹⁰⁴ [trans_mh_study.pdf \(scottishtrans.org\)](https://scottishtrans.org)

¹⁰⁵ [National LGBT survey: research report \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

¹⁰⁶ [Non-binary-report.pdf \(scottishtrans.org\)](https://scottishtrans.org)

a non-binary gender identity. We are therefore unable to review existing data in relation to the themes of the action plan in this section.

The key areas where non-binary people can be considered are where societal limitations continue to perceive non-binary people through the lens of binary ‘sex’, such as legal recognition and service provision.

Healthcare was a key theme for the Group. One relevant issue was that patient data is coded to sex through CHI numbers. The Group noted that sex should be recorded relevantly in health information, and that trans and non-binary people continue to be able to update their records to reflect their lives.

They stated that sex markers linked to CHI numbers are inaccurate and there would be more appropriate ways of delivering care that involves screening. Assuming medical needs based on sex codes has an impact beyond trans and non-binary people. For example, women who have previously undergone a mastectomy may be inappropriately called for breast screening.¹⁰⁷

The focus groups acknowledged the benefits of updating NHS data systems but were concerned about changes becoming an ID database and the security implications that this may have for trans and non-binary people. They suggested this data should be protected, and would want to know how it would be used including which organisations would have access to it, if implemented.

A report by Scottish Trans found non-binary people had concerns around health care providers having accurate information about them, and why they might be required to disclose their sex assigned at birth. Without this information they found that non-binary people may not receive the correct prompts for health checks that are issued based on the gender of their records which highlights the existing system assumes people using services are cisgender. They suggest that a more flexible and inclusive system which acknowledges the reality that a person’s gender does not necessarily tell you about a person’s body would alleviate concerns around changing the way your gender is recorded with healthcare providers.¹⁰⁸

Race

There is very little evidence on race and the intersection with non-binary identities. The research available also predominantly focuses on experiences of people from racialised minorities with healthcare, and most of this research also focuses on experiences originating in the United States.

The relevant research which is referenced in the below section does show that people from racialised minorities encounter significant barriers when accessing services. These barriers are often congruent with the barriers that trans and non-binary people, as well as disabled people, experience – and when someone shares these intersectional protected characteristics their experiences are significantly more challenging.

¹⁰⁷ [Non-Binary Working Group Report and Recommendations March 2022 \(www.gov.scot\)](https://www.gov.scot)

¹⁰⁸ [Non-binary-report.pdf \(scottishtrans.org\)](https://scottishtrans.org)

It is notable that people from racialised minorities and disabled people “did not experience racism and ableism as separate forms of discrimination extraneous to transphobia but instead these factors were compounded with transphobia”. The results suggest that being a person from a racialised minority and/or disabled “may be linked to worse experiences of and a heightened impact of transphobia itself”, compared to their non-disabled, non-racialised minority counterparts.¹⁰⁹

Trans and non-binary people were particularly likely to speak about suicidal thoughts, although these tended to subside after transition. Those especially susceptible to suicidal thoughts included those growing up in cultural or religious groups who were not accepting of LGBTQI+ identities. Asylum seekers were especially likely to have attempted suicide. The prevalence of suicide attempts was highest among trans masculine and non-binary people, with nearly half of respondents in these groups saying they had made a suicide attempt.¹¹⁰

Further research which does not focus on healthcare is sparse.

An older piece of research, Equality Network’s ‘Minority Ethnic LGBT people in Scotland’ report shows that there was a lack of intersectional research which considers how someone’s ethnicity and gender identity can interact.¹¹¹ They did find that people who are LGBT and from a minority ethnic background may often feel apart from, rather than a part of, both their LGBT and ethnic communities which can lead to feelings of isolation, low esteem as well as confusion over identity. Some can also be in a position where they feel that they do not belong to either the LGBT community or their minority ethnic community and are forced to express one part of their identity at the expense of the other.

The limited data on trans and non-binary people from racialised minorities can be found piecemeal through additional areas of research, key findings being:

- 27% of all respondents to the Trans Lives Survey 2021 reported that they have experienced homelessness at some point in their lives, rising to 35% for people from racialised minorities and disabled respondents.¹¹²
- 69% of racialised minority respondents reported experiencing transphobia from their line manager at work, and reported consistently higher rates of experiencing transphobia from colleagues (88% compared to 73% of non-racialised minority people), friends (81% compared to 69% of people from racialised minorities) and family (95% compared to 84% of people from racialised minorities).¹¹³
- People from racialised minorities are more likely to report frequent experiences of transphobia while playing sports. 14% reported experiencing transphobia ‘every time’, and a further 20% reported experiencing it ‘frequently’ (compared to 5% of non-racialised minority people experiencing it ‘every time’, and 12% experiencing it ‘frequently’).¹¹⁴

¹⁰⁹ [Trans+Lives+Survey+2021.pdf \(squarespace.com\)](#)

¹¹⁰ [Health needs assessment of lesbian, gay, bisexual, transgender and non-binary people \(scot.nhs.uk\)](#)

¹¹¹ [Everyone In The Minority Ethnic LGBT Project](#)

¹¹² [Trans+Lives+Survey+2021.pdf \(squarespace.com\)](#)

¹¹³ [Trans+Lives+Survey+2021.pdf \(squarespace.com\)](#)

¹¹⁴ [Trans+Lives+Survey+2021.pdf \(squarespace.com\)](#)

Pregnancy and Maternity

There is a lack of evidence on pregnancy and maternity for non-binary people in Scotland.

Regarding fertility preservation, there is some evidence in the Group's report and Equality Network's 'Trans People's Experiences of Reproductive and Fertility Services in Scotland Study' which looked at the qualitative experiences of 146 trans people in Scotland.¹¹⁵

These data sources show the protected characteristics most affected by these issues are non-binary people who were assigned female at birth, in particular younger people who are considering or beginning a transition journey.

It found that non-binary respondents who had been pregnant said their sexual orientation or gender identity had affected their experience of pregnancy. Whilst the respondents who had been pregnant as part of the survey were small in number, there were notes of dissatisfaction when using pregnancy services with some respondents saying they had been misgendered, and someone had been told they couldn't be trans because they were pregnant.

Research found that trans and non-binary people encountered challenges when breast or chest-feeding. The research stated that 'such challenges can include increased gender dysphoria, 'outing' oneself as trans during breast/chest-feeding, as well as misgendering and experiencing discrimination from healthcare professionals."¹¹⁶

Research indicated that fertility preservation is often poorly-handled for trans and non-binary people. Some clinicians in Gender Identity Clinics can be very focussed on fertility preservation, particularly for young trans and non-binary people, which leads to unnecessary delays in accessing other medical interventions.¹¹⁷

¹¹⁵ [Repro-report-Trans-final-web.pdf \(equality-network.org\)](#)

¹¹⁶ [Repro-report-Trans-final-web.pdf \(equality-network.org\)](#)

¹¹⁷ [Repro-report-Trans-final-web.pdf \(equality-network.org\)](#)

Chapter 3: Assessing the Impacts and Identifying Opportunities to Promote Equality

Having considered the available evidence and data, in this section the potential impacts of the actions in the plan are considered with regards to each protected characteristic. The assessment of the impacts is being considered by taking a holistic approach, where each of the themes are being assessed as a package of actions and related policies. It is important to note this EQIA is assessing the impact of the action plan as a whole, and many of the actions and related policies will require their own detailed EQIA as they progress.

As set out in the plan, continued engagement with stakeholders and those with lived experience will help us develop a deeper understanding of the needs and the impact of intersection of protected characteristics for non-binary people in Scotland. This engagement will be important throughout the design, implementation and monitoring of the actions and policies to ensure delivery of approaches which are person-centred and effectively meet the needs and rights of protected characteristic groups, and will form action in maximising the positive impacts set out below.

The Equality Act 2010 legally protects people from discrimination. It ensures that individuals are not directly or indirectly discriminated against on the basis of having any of the nine protected characteristics. This section looks at the six overarching themes of the action plan in the context of each of the nine protected characteristics in the Equality Act 2010.

It is important to note that some of the protected characteristics under the themes have been grouped together due to the shared impacts, for example with ‘Participation in Decision Making’.

The analysis of the impacts relating to each protected characteristic needs to be assessed in accordance with Section 149 of the Public Sector Equality Duty (PSED). Those subject to the PSED must, in the exercise of their functions, have due regard to the need to:

1. Eliminate discrimination, harassment, victimisation, and any other conduct that is prohibited by or under this Act;
2. Advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and,
3. Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

The PSED requires public bodies to take proactive measures to address inequality and help contribute to the government’s commitment to tackle disadvantage and discrimination, advance equality of opportunity and encourage good relations between all people. Regulation 5 of the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012 requires listed authorities to undertake an impact assessment to assess the impact of applying a proposed new or revised policy or practice against the three needs of the PSED.

The three aims of the duty apply to all protected characteristics provided for in section 149(7). Although marriage and civil partnership is a protected characteristic under the Equality Act, it is not covered by the second and third matters of the PSED.

Therefore, marriage and civil partnership is only considered in terms of discrimination, harassment and victimisation throughout this EQIA.

Finally, many of the actions in the plan relate to proposed measures, so the impact of these actions and their related policies will evolve as they are developed.

Participation in Decision Making

Age, Disability, Race, Gender Reassignment	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	We don't expect there to be a significant impact however reducing barriers for non-binary people's involvement in decision making may result in elimination of unlawful discrimination, harassment and victimisation through more inclusively designed policy and legislation.
Advancing equality of opportunity	positive	<p>The commitment to establishing a process for paying participant expenses and time will remove some barriers that multiply marginalised people experience, in particular non- binary people who are also young, a racialised minority, and/or disabled. This will enable those who are multiple marginalised to participate meaningfully and be involved in decision-making processes, covering the costs of their involvement in addition to recognising the value of their contribution. This recognises that multiply marginalised people – including non-binary people - often face higher costs for their involvement, and will mitigate some of these barriers.</p> <p>Seeking to change DWP's approach to payment to claimants will, if successful, remove risk and potential financial harm to participants.</p> <p>The Participation Framework is currently being updated following equalities-focused workshops with the public and stakeholders. This will result in guidance that focuses on the needs and priorities of multiply marginalised groups, including non-binary people. It will form part of a package of resources to support SG staff to design and commission more inclusive forms of public participation – this will support the ethical involvement of multiply marginalised groups.</p>
Promoting good relations	none	. We don't expect there to be a significant impact however the inclusion of a diversity of voices through the Non-Binary Working Group and focus group sessions has benefitted the development of the actions included in the Non-Binary Equality Action Plan.

Marriage and Civil Partnership, Pregnancy and Maternity, Religion and Belief, Sexual Orientation, Sex	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on eliminating unlawful discrimination, harassment and victimisation.
Advancing equality of opportunity	positive	Whilst the commitments made will have some effect on non-binary people with these intersectional protected characteristics including the updated process for participant expenses, ensuring payment for involvement in projects will not affect DWP benefits, and improvements to the Scottish Government’s Participation Framework are for all, they will mostly affect the protected characteristics with the most financial vulnerability highlighted in the above section
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Healthcare

Age	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	Improvements to Equality, Diversity and Inclusion training for the Mental Health and Wellbeing workforce will include ageism ensuring practitioners are more aware of and can offer more culturally competent and sensitive support.
Advancing equality of opportunity	positive	<p>This programme of work is expected to have positive impact on advancing equality of access to services, for example through the commitment in the framework for NHS gender identity service improvement to support the establishment of a nationally commissioned Young Person’s Gender Identity Service, improving current service provision for young people seeking to explore their gender identity.</p> <p>More broadly the implementation of the framework for NHS gender identity service improvement aims to reduce waiting times to access all gender identity services for both adults and young people. This will likely have positive impact on people of all ages seeking to access trans specific healthcare. Furthermore, a commitment to fund research on improving care and on long term health outcomes for people accessing gender identity healthcare will likely benefit all age groups.</p> <p>The membership of the Mental Health Equality and Human Rights Forum will be reviewed to ensure it has representation from non-binary and young people. Keeping the evidence base up to date through engagement with the Forum.</p> <p>Evidence has been gathered on young non-binary people’s mental health as part of the Mental Health Equality Evidence Report published alongside the Mental Health and Wellbeing Delivery Plan. This will be used as an evidence resource to help strengthen EQIAs on future mental health policy.</p> <p>Generally, this EQIA notes that age and access to health services can also intersect with disability (addressed below) which may put older people at greater disadvantage.</p>

Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.
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Disability	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>Working to strengthen accountability for public bodies delivering mental health services in order to support how mental health inequalities are addressed at a local service level, identifying the levers available to effect change in mental health service delivery.</p> <p>This strengthening will be guided by the Mental Health and Wellbeing Strategy Delivery Plan.</p>
Advancing equality of opportunity	positive	<p>Implementation of the actions in the framework for NHS gender identity service improvement are expected to have positive impact on advancing equality of opportunity for trans disabled people by improving access and reducing waiting times, including a likely positive associated impact on mental health through improved timely access.</p> <p>A commitment to increased staff training and development within the framework for NHS gender identity service improvement may also have positive impact for trans disabled people, through increased awareness of trans healthcare needs. This also presents an opportunity for a better understanding of specific challenges that disabled people accessing gender identity services may face.</p> <p>Developing quality standards to support general adult secondary mental health services will to improve the quality and safety of mental health services and the delivery of psychological therapies and interventions.</p> <p>Evidence on intersectional disability and LGBTQI+ experiences has been gathered as part of the Mental Health Equality Evidence Report published alongside our Mental Health and Wellbeing Delivery Plan. This will be used to strengthen EQIAs on future mental health policy.</p>
Promoting good relations	positive	These actions have the potential to raise awareness, challenge stigma and increase

		inclusion for disabled non-binary people ensuring they have better access to healthcare services.
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Marriage and Civil Partnership	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on eliminating unlawful discrimination, harassment and victimisation.

Pregnancy and Maternity	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>Specific standards will be developed on providing care in an environment free from stigma and given consideration to people’s experiences, personal circumstances and requirements.</p> <p>Specific standards have been developed on the need for mental health services to be connected to other health and social care services.</p> <p>Standards have been developed which emphasise the importance of including people’s support networks in their care if they want them to be and of signposting support networks to support themselves.</p>
Advancing equality of opportunity	positive	Evidence on intersectional disability and LGBTQI+ experiences has been gathered as part of the Mental Health Equality Evidence Report published alongside our Mental Health and Wellbeing Delivery Plan. This will be used to strengthen EQIA’s on future mental health policy.
Promoting good relations	positive	<p>The fertility preservation guidance for all groups of patients that may require access will make information on fertility preservation easier to access and more coherent, empowering trans and non-binary people to make informed decisions.</p> <p>The development of leaflets of fertility preservation will promote equitable access to information on fertility preservation treatments which will enable trans and non-binary people to make informed decisions before starting treatment or undergoing surgery.</p> <p>The joint report and draft bill on surrogacy will provide recommendations to the UK and Scottish</p>

		<p>Governments on the law of surrogacy which should provide clarity for trans and non-binary people who are considering or going through the process.</p> <p>Updates to NHS Inform on fertility treatments available for trans and non-binary people in Scotland will enable easier access to information to empower trans and non-binary people to make informed decisions.</p>
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Race	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>Improvements to Equality, Diversity and Inclusion training for the Mental Health and Wellbeing workforce will include anti-racism ensuring practitioners are more aware of and can offer more culturally competent and sensitive support and services to better meet the needs of groups with specific protected characteristics.</p> <p>Standards have been developed to support general adult secondary mental health will be in accordance with Commitment 7 in the plan will specifically outline the expectation that services should work to reduce stigma and barriers for those accessing services including consideration of inequalities related to cultural, ethnic, and other protected characteristics.</p> <p>Specific standards requiring services will use demographic data, engagement intelligence, national prevalence rates and data on wider determinants of health to identify groups with poorer mental health and direct resources accordingly.</p>
Advancing equality of opportunity	positive	<p>The collection of robust data within NHS systems and associated evaluation of improvement work as one of the actions of the framework for NHS gender identity service improvement, will seek to allow for continued monitoring of the potential impact of this work on this protected characteristic.</p> <p>A lived experience coordinator role has been established and is working specifically to ensure diverse views and experiences are fed into all workstreams.</p>

		Evidence on intersectional race and LGBTQI+ experiences has been gathered as part of the Mental Health Equality Evidence Report published alongside our Mental Health and Wellbeing Delivery Plan. This will be used to strengthen EQIA's on future mental health policy.
Promoting good relations	positive	The development of a series of impact assessments, including an Equality Impact Assessment (EQIA), for the proposed actions in the new Mental Health and Wellbeing Workforce Action Plan will ensure race is considered alongside the development of relation actions and policies which has the potential to raise awareness, challenge stigma and increase inclusion for non-binary people of colour.

Religion and Belief	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>Some religious bodies may have concerns on societal or doctrinal grounds to the provision of NHS gender identity services while other religious or belief bodies may support the provision of these services, however this programme of work is not expected to have an impact on people because of their religion or belief.</p> <p>Mental health standards on providing care in an environment free from stigma and given consideration to people's experiences, personal circumstances and requirements.</p> <p>Specific standards emphasising importance of the help people receive being person centred, respectful of people's choices and based on the evidence about what is most likely to help them. This will take into account their cultural and social needs, and will aim to follow the principles of trauma-informed practice.</p> <p>Specific standards requiring services will use demographic data, engagement intelligence, national prevalence rates and data on wider determinants of health to identify groups with poorer mental health and direct resources accordingly.</p>

Advancing equality of opportunity	positive	Evidence on religion and belief experiences has been gathered as part of the Mental Health Equality Evidence Report published alongside our Mental Health and Wellbeing Delivery Plan. This will be used to strengthen EQIA's on future mental health policy.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Sex	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>Improvements to Equality, Diversity and Inclusion training for the Mental Health and Wellbeing workforce will include sexual harassment ensuring practitioners are more aware of and can offer more culturally competent and sensitive support and services to better meet the needs of groups with specific protected characteristics.</p> <p>Specific standards on providing care in an environment free from stigma and given consideration to people's experiences, personal circumstances and requirements.</p> <p>Specific standards requiring services will use demographic data, engagement intelligence, national prevalence rates and data on wider determinants of health to identify groups with poorer mental health and direct resources accordingly, including gender diverse data.</p> <p>There are specific standards that include the need for gender inclusive services, this will help ensure that individuals of all gender identities feel safe and respected.</p>
Advancing equality of opportunity	positive	<p>NHS England GIDS (2018)¹¹⁸ reported an increased number of referrals for people assigned female at birth to their young people's services. Disaggregated data is not currently publicly available in Scotland for adult or young people's services.</p> <p>The collection of robust data within NHS systems and associated evaluation of improvement work as one of the actions of the framework for NHS</p>

¹¹⁸ [Assessment and support of children and adolescents with gender dysphoria | Archives of Disease in Childhood \(bmj.com\)](https://www.bmj.com/content/366/bmj.m1667)

		<p>gender identity service improvement, will seek to allow for continued monitoring of any potential impact of this work on this protected characteristic.</p> <p>Evidence on intersectional sex and LGBTQI+ experiences has been gathered as part of the Mental Health Equality Evidence Report published alongside our Mental Health and Wellbeing Delivery Plan. This will be used to strengthen EQIA's on future mental health policy.</p>
Promoting good relations	positive	<p>The fertility preservation guidance for all groups of patients that may require access will make information on fertility preservation easier to access and more coherent, empowering trans and non-binary people to make informed decisions.</p> <p>The joint report and draft bill on surrogacy will provide recommendations to the UK and Scottish Governments on the law of surrogacy which should provide clarity for those people who are considering or going through the process.</p>

Sexual Orientation	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>Although the framework for NHS gender identity service improvement is not specifically designed for this, the commitment to staff training and development could have positive impact through promoting increased awareness of gender identity, sexual orientation and their intersections.</p> <p>Additionally improvements to Equality, Diversity and Inclusion training for the Mental Health and Wellbeing workforce will cover LGBT equality ensuring practitioners are more aware of and can offer more culturally competent and sensitive support and services to better meet the needs of groups with specific protected characteristics.</p>
Advancing equality of opportunity	positive	<p>We have gathered evidence on sexual orientation experiences in our Mental Health Equality Evidence Report published alongside our Mental Health and Wellbeing Delivery Plan. This will be used as an evidence resource to help strengthen EQIAs on future mental health policy ensuring the needs of these group are considered and addressed.</p>

Promoting good relations	positive	Specific standard emphasising importance of including people’s support networks in their care if they want them to be and of signposting support networks to support themselves.
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Gender Reassignment	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>Improving access to, and delivery of, NHS gender identity services is a Bute House Agreement commitment and Programme for Government Commitment in 21/22, 22/23 and 23/24. Delivery of this commitment is being led by Scottish Government’s Health and Social Care Directorates, in partnership with NHS Scotland Health Boards.</p> <p>This substantive work is already well underway, Scottish Government published the NHS gender identity services: strategic action framework 2022-2024¹¹⁹ (the Framework) in December 2021. This describes how the Scottish Government is working to improve access to, and delivery of, NHS gender identity services for trans, including non-binary people.</p> <p>In preparing the Framework Scottish Government engaged with organisations representing trans people in Scotland, the Scottish Government’s Non-Binary Working Group, NHS clinicians delivering gender identity healthcare, NHS Boards and people using services.</p> <p>To oversee implementation of the Framework’s actions, a National Gender Identity Healthcare Reference Group¹²⁰ was established in early 2022. This Reference Group includes NHS Board representation, clinicians, academics, LGBTQI+ organisations and people with lived experience of using gender identity healthcare.</p> <p>Improvements to Equality, Diversity and Inclusion training for the Mental Health and Wellbeing</p>

¹¹⁹ [Introduction - NHS gender identity services: strategic action framework 2022-2024 - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/introduction-nhs-gender-identity-services-strategic-action-framework-2022-2024/pages/1-introduction.aspx)

¹²⁰ [National Gender Identity Healthcare Reference Group: terms of reference - gov.scot \(www.gov.scot\)](https://www.gov.scot/publications/national-gender-identity-healthcare-reference-group-terms-of-reference/pages/1-introduction.aspx)

	<p>workforce will cover transgender and non-binary equality ensuring practitioners are more aware of and can offer more culturally competent and sensitive support and services to better meet the needs of groups with specific protected characteristics.</p> <p>We have committed to undertaking Equality Impact Assessments for mental health policies and actions, ensuring that they address the specific needs of trans and non-binary people, putting in place structures in the mental health directorate and wider guidance to ensure the needs of protected groups are being considered, including trans and non-binary people, when new or revised policies are introduced.</p> <p>The quality standards to support general adult secondary mental health services as outlined in the plan will require services to monitor and report on the standards and have processes in place to learn from feedback and complaints and use this information to improve services. There are several challenges facing this group, such as traditional data collection not capturing non-binary identities. Services may not always be gender inclusive, making it difficult for services to be accessed.</p> <p>There are specific standards that outline that equalities groups, including non-binary people, should have equitable access to mental health care. That non-binary people should not be discriminated against by staff and that services should treat individuals with cultural sensitivity.</p> <p>The standards also outline the need for individuals to have choice in how they access support as well as access to independent advocacy which should support the provision of person centred care for trans and non-binary people as they are more likely to lack choice and agency when receiving care.</p> <p>The standards also outline the important of staff accessing adequate training to enable them to support equalities groups. Equalities and diversity training is specifically mentioned.</p>
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<p>Advancing equality of opportunity</p>	<p>positive</p>	<p>The framework for NHS gender identity service improvement is most likely to positively impact this protected characteristic group. Framework implementation will have at heart people who are accessing gender identity healthcare services.</p> <p>The framework for NHS gender identity service improvement also sets out actions to improve service delivery, waiting times and NHS Scotland staff awareness and knowledge of trans healthcare needs. This will contribute to a better healthcare experience for trans people across NHS Scotland settings.</p> <p>We have gathered evidence on gender reassignment experiences in our Mental Health Equality Evidence Report published alongside our Mental Health and Wellbeing Delivery Plan. This will be used as an evidence resource to help strengthen EQIAs on future mental health policy ensuring the needs of these group are considered and addressed.</p>
<p>Promoting good relations</p>	<p>positive</p>	<p>People with lived experience and their representatives are involved in all aspects of the work to oversee the implementation of the framework for improving gender identity healthcare. The Scottish Government continues to work to embed involvement of those who have experience of accessing specialist healthcare services, including non-binary people accessing transition related healthcare.</p> <p>The fertility preservation guidance for all groups of patients that may require access will make information on fertility preservation easier to access and more coherent, empowering trans and non-binary people to make informed decisions.</p> <p>The development of leaflets of fertility preservation will promote equitable access to information on fertility preservation treatments which will enable trans and non-binary people to make informed decisions before starting treatment or undergoing surgery.</p> <p>Updates to NHS Inform on fertility treatments available for trans and non-binary people in</p>

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		Scotland will enable easier access to information to empower trans and non-binary people to make informed decisions.
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Legislation, Guidance and Access to Services

Age	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on eliminating unlawful discrimination, harassment and victimisation.
Advancing equality of opportunity	positive	With the development of a reusable Digital Identity service the Scottish Government are aware of the challenges which will face our ageing population and understands that digital technology has a significant role to play in more effective and person centred delivery of services, reducing isolation and supporting everyone in their homes for longer
Promoting good relations	positive	On producing guidance for individuals on how to change your name in Scotland we are considering how best to ensure that parents consult children when seeking to change their child's name decisions on names in some cases may be for the parents.

Disability	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	A reusable Digital Identity service would make it easier for those with disabilities which may prevent them accessing services in person to use online services effectively with less barriers.
Advancing equality of opportunity	none	Advancing discussions to investigate how the Scottish Government could make buildings more accessible through other means outside the scope of building regulations may advance equality of opportunity for disabled non-binary people, however current development of the actions cannot guarantee this.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Marriage and Civil Partnership	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on eliminating unlawful discrimination, harassment and victimisation.

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Pregnancy and Maternity	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on eliminating unlawful discrimination, harassment and victimisation.
Advancing equality of opportunity	none	The actions and related policies under this theme will not impact on advancing equality of opportunity.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Race	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on eliminating unlawful discrimination, harassment and victimisation.
Advancing equality of opportunity	none	The actions and related policies under this theme will not impact on advancing equality of opportunity.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Religion and Belief	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on eliminating unlawful discrimination, harassment and victimisation.
Advancing equality of opportunity	none	The actions and related policies under this theme will not impact on advancing equality of opportunity.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Sex	Impact	Rationale
Eliminating unlawful discrimination,	positive	A reusable Digital Identity service would reduce the need for organisations to verify and store unnecessary information for service provision, which may include gender markers.

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harassment and victimisation		Exploration of non-binary people’s experience of the continuum of gender-based violence will provide further evidence to inform policy making, service provision and funding.
Advancing equality of opportunity	none	The evidence from work on CHI numbers including the review by on lessons learned from our current work on the new CHI project, the initial review to understand the impact and options available in changing the Sex code field in CHI, and a review in the context of Scotland’s Data Strategy for Health and Social Care on the wider clinical impact of amendments to the CHI number, will all inform how we may progress, however the specific impact cannot be determined until the work has concluded.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Sexual Orientation	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	A reusable Digital Identity service would reduce the need for organisations to verify and store unnecessary information for service provision, which may include information on sexual orientation.
Advancing equality of opportunity	none	The actions and related policies under this theme will not impact on advancing equality of opportunity.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Gender Reassignment	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>A reusable Digital Identity service would reduce the need for organisations to verify and store unnecessary information for service provision, which may include gender markers.</p> <p>Exploration of non-binary people’s experience of the continuum of gender-based violence will provide further evidence to inform policy making, service provision and funding.</p> <p>Updating the internal Equality Impact Assessment guidance to include specific asks on trans and</p>

		non-binary people will result in better laws and policies which ensure due consideration will be given to trans and non-binary people’s needs from inception to delivery.
Advancing equality of opportunity	positive	<p>People undergoing gender reassignment may wish to change their name. The guidance which will be developed will cover people generally, including trans people.</p> <p>Having a reusable Digital Identity service will provide trans and non-binary people access to services online will may help reduce instances of discrimination when accessing services</p> <p>The evidence from work on CHI numbers including the review by on lessons learned from our current work on the new CHI project, the initial review to understand the impact and options available in changing the Sex code field in CHI, and a review in the context of Scotland’s Data Strategy for Health and Social Care on the wider clinical impact of amendments to the CHI number, will all inform how we may progress, however the specific impact cannot be determined until the work has concluded.</p>
Promoting good relations	positive	The latest published edition of the Drafting Guidance, Drafting Matters!, includes an express reference to the particular relevance for non-binary people against the use of gender-specific pronouns. This will ensure Scottish Government staff will give due regard to the language and terminology they use and will result in greater understanding which in turn will impact beneficially on non-binary people when changes to law and policies are being considered.

Improving Evidence and Data

Age	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on promoting good relations.
Advancing equality of opportunity	positive	<p>The publication of the trans status and history question from the 2022 Scotland’s Census will provide insight into the ages of trans people in Scotland, data which is currently inaccurate and difficult to evaluate as shown by the research above. As the above research shows there is a lack of data on how many trans and non-binary people live in Scotland, and this data will provide an insight on their lives.</p> <p>Working with stakeholders to fill current evidence gaps will provide scope to understand more about the intersectional experiences of non-binary people which could provide further insight on all intersectional protected characteristics. include race, disability, and religion & belief given the lack of data of these intersectional characteristics.</p>
Promoting good relations	positive	Further data on trans and non-binary people in Scotland may help point to issues with discrimination which can lead to more targeted policies and outreach for young people.

Disability	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>Having a ‘Call for Evidence’ to seek evidence and examples of barriers to the provision and functionality of gender-neutral facilities within Scotland’s public buildings will give a voice to non-binary people with intersectional needs including disability. As evidenced by the focus groups disabled non-binary people face challenges when accessing facilities and services, and this will provide disabled non-binary people an opportunity reduce the barriers to the provision and/or operation of usable and accessible facilities for all users, within Scotland’s public buildings.</p> <p>The guidance for public bodies, including recommended questions to ask, to gather information on sex and gender advocates that where sample size and quality allows, data should</p>

		be disaggregated, including by disability. Having more granular data available on disability will allow for better interpretation of data for policy making.
Advancing equality of opportunity	positive	Working with stakeholders to fill current evidence gaps will provide scope to understand more about the intersectional experiences of non-binary people which could provide further insight on all intersectional protected characteristics. include race, disability, and religion & belief given the lack of data of these intersectional characteristics.
Promoting good relations	positive	Further data on trans and non-binary people in Scotland may help point to issues with discrimination which can lead to more targeted policies and outreach for disabled people.

Marriage and Civil Partnership	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>Working with stakeholders to fill current evidence gaps will provide scope to understand more about the intersectional experiences of non-binary people which could provide further insight on all intersectional protected characteristics. include race, disability, and religion & belief given the lack of data of these intersectional characteristics.</p> <p>The guidance for public bodies, including recommended questions to ask, to gather information on sex and gender advocates that where sample size and quality allows, data should be disaggregated, including by marriage and civil partnership status. Having more granular data available on disability will allow for better interpretation of data for policy making.</p>

Pregnancy and Maternity	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	The guidance for public bodies, including recommended questions to ask, to gather information on sex and gender advocates that where sample size and quality allows, data should be disaggregated, including by pregnancy and maternity. Having more granular data available on disability will allow for better interpretation of data for policy making.

<p>Advancing equality of opportunity</p>	<p>positive</p>	<p>Working with stakeholders to fill current evidence gaps will provide scope to understand more about the intersectional experiences of non-binary people which could provide further insight on all intersectional protected characteristics. include race, disability, and religion & belief given the lack of data of these intersectional characteristics.</p> <p>Guidance for fertility preservation treatment services will publish in 2024 and this will provide health professionals with information on which patients and when they should be offered fertility preservation. We expect that this will improve referrals to the service and that they will be made correctly.</p> <p>NHS Inform will be updated to provide all with information about fertility treatment services available including fertility preservation. We expect this to provide patients with information about what is available within fertility services and how they can be accessed.</p>
<p>Promoting good relations</p>	<p>none</p>	<p>The actions and related policies under this theme will not impact on promoting good relations.</p>

Race	Impact	Rationale
<p>Eliminating unlawful discrimination, harassment and victimisation</p>	<p>positive</p>	<p>The ‘Call for Evidence’ to seek evidence and examples of barriers to the provision and functionality of gender-neutral facilities within Scotland’s public buildings will give a voice to non-binary people from racialised minorities. Research shows that people from racialised minorities can face discrimination when accessing facilities and services. This will provide non-binary people from racialised minorities an opportunity reduce the barriers to the provision and/or operation of usable and accessible facilities for all users, within Scotland’s public buildings.</p> <p>The guidance for public bodies, including recommended questions to ask, to gather information on sex and gender advocates that where sample size and quality allows, data should be disaggregated, including by race. Having more granular data available on disability will allow for better interpretation of data for policy making.</p>

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Advancing equality of opportunity	positive	Working with stakeholders to fill current evidence gaps will provide scope to understand more about the intersectional experiences of non-binary people which could provide further insight on all intersectional protected characteristics. include race, disability, and religion & belief given the lack of data of these intersectional characteristics.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Religion and Belief	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on eliminating unlawful discrimination, harassment and victimisation.
Advancing equality of opportunity	positive	Working with stakeholders to fill current evidence gaps will provide scope to understand more about the intersectional experiences of non-binary people which could provide further insight on all intersectional protected characteristics. include race, disability, and religion & belief given the lack of data of these intersectional characteristics. The guidance for public bodies, including recommended questions to ask, to gather information on sex and gender advocates that where sample size and quality allows, data should be disaggregated, including by religion and belief. Having more granular data available on disability will allow for better interpretation of data for policy making.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Sex	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on eliminating unlawful discrimination, harassment and victimisation.
Advancing equality of opportunity	positive	Working with stakeholders to fill current evidence gaps will provide scope to understand more about the intersectional experiences of non-binary people which could provide further insight on all intersectional protected characteristics. include

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		<p>race, disability, and religion & belief given the lack of data of these intersectional characteristics.</p> <p>The review of guidance for public bodies will seek stakeholder input on how data on sex, gender identity and trans status is collected.</p>
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Sexual Orientation	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on eliminating unlawful discrimination, harassment and victimisation.
Advancing equality of opportunity	positive	<p>Working with stakeholders to fill current evidence gaps will provide scope to understand more about the intersectional experiences of non-binary people which could provide further insight on all intersectional protected characteristics. include race, disability, and religion & belief given the lack of data of these intersectional characteristics.</p> <p>The guidance for public bodies, including recommended questions to ask, to gather information on sex and gender advocates that where sample size and quality allows, data should be disaggregated, including by sexual orientation. Having more granular data available on disability will allow for better interpretation of data for policy making.</p>
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Gender Reassignment	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>Procurement of an external supplier to research legal recognition of non-binary people and will publish the report will allow us to understand how non-binary legal recognition could work in Scotland.</p> <p>Publishing guidance for public bodies, including recommended questions to ask, to gather information on sex and gender including a free response question on trans status will help build</p>

		<p>on data to help make services better for trans and non-binary people.</p>
<p>Advancing equality of opportunity</p>	<p>positive</p>	<p>Evaluation of data from SG surveys that include the trans status question and development of a coding framework to analyse the outputs from the free text responses collected via the trans status question will result in a larger base of data on which can then be used to inform the betterment of evidence-based policy making for trans and non-binary people in Scotland.</p> <p>This will include the publication of the trans status and history question from the 2022 Scotland’s Census. As the above research shows there is a lack of data on how many trans and non-binary people live in Scotland, and this data will provide an insight on their lives.</p> <p>The review of available quantitative and qualitative evidence on the experiences of non-binary people in Scotland and the expansion of the range of evidence non-binary people’s experiences presented on the Equality Evidence Finder to include third sector and academic research will result in easier accessibility to useful data to inform policy. This is a public resource, so the expansion of data will make it easier for everyone to access.</p> <p>Working with stakeholders to fill current evidence gaps will provide scope to understand more about the intersectional experiences of non-binary people which could provide further insight on all intersectional protected characteristics. including race, disability, and religion & belief given the lack of data of these intersectional characteristics.</p> <p>The review of guidance for public bodies will seek stakeholder input on how data on sex, gender identity and trans status is collected.</p> <p>Guidance for fertility preservation treatment services will publish in 2024 and this will provide health professionals with information on which patients and when they should be offered fertility preservation. We expect that this will improve referrals to the service and that they will be made correctly. This guidance will include a specific section providing guidance for those transgender</p>

		<p>and non-binary patients. We expect this will improve the discussions about what is right for individual patients.</p> <p>Patient leaflets will be produced to be issued alongside this guidance to provide patients with information to make informed choices. There will be separate leaflets providing information to transgender and non-binary patients. We expect these to allow patients to decide if they wish to preserve their fertility.</p>
<p>Promoting good relations</p>	<p>positive</p>	<p>Training webinars will ensure those who refer to and provide fertility preservation services will have the correct information about when this should be offered. This we expect will allow all patients including those transgender and non-binary patients to make better informed choices about whether this is something that they wish to do.</p>

Children and Young People

Age	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>On 1 June 2023 we published a Participation and Engagement Plan for children and young people describing how the voices of children, including LGBTQI+ children, will be embedded in the development delivery of Bairns’ Hoose in Scotland will improve our understanding of the needs of non-binary children who access crisis support services, and help to remove barriers to access.</p> <p>We will engage directly with LGBTQI+ organisations and this engagement will inform the development of our impact assessments. This includes a Children’s Rights and Wellbeing Impact assessment on the Bairn’s Hoose Project and an Equality Impact Assessment, both of which will help shape our policy development and understand the impacts of Bairns’ Hoose on specific groups including LGBTQI+ children.</p>
Advancing equality of opportunity	positive	<p>Supporting SEEMiS to implement the addition of a gender identity field will remove barriers for non-binary young people, enabling them to participate equally at school.</p> <p>Establishing a focus group and making use of existing monitoring and tracking mechanisms for LGBT inclusive education to gather data on experiences of non-binary young people and attitudes of their peers, rather than population as a whole will positively impact LGBTQI+ young people as more data will be available on their experiences, specifically those aged 3-18.</p>
Promoting good relations	positive	<p>Evaluating the implementation of LGBT inclusive education in conjunction with non-binary pupils where possible will improve understanding of barriers faced by non-binary young people in education and the impact on them of Inclusive Education.</p> <p>Working with non-binary pupils where possible to understand the impact of implementation upon the understanding and opinions of their cisgender peers towards non-binary identities will encourage the promotion of good relations.</p>

Disability	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>On 1 June 2023 we published a Participation and Engagement Plan for children and young people describing how the voices of children, including LGBTQI+ children, will be embedded in the development delivery of Bairns' Hoose in Scotland will improve our understanding of the needs of non-binary children who access crisis support services, and help to remove barriers to access.</p> <p>We will engage directly with LGBTQI+ organisations and this engagement will inform the development of our impact assessments. This includes a Children's Rights and Wellbeing Impact assessment on the Bairn's Hoose Project and an Equality Impact Assessment, both of which will help shape our policy development and understand the impacts of Bairns' Hoose on specific groups including those with disabilities.</p>
Advancing equality of opportunity	none	The actions and related policies under this theme will not impact on advancing equality of opportunity.
Promoting good relations	positive	LGBT inclusive education is linked to the wider social justice work within education, looking more broadly at a wide range of protected characteristics. Work to challenge prejudice and stereotyping may have a positive knock-on impact on other protected characteristics. LGBT inclusive curricular content includes examples of role models and notable figures with disabilities.

Marriage and Civil Partnership	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on eliminating unlawful discrimination, harassment and victimisation.

Pregnancy and Maternity	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on eliminating unlawful discrimination, harassment and victimisation.

Advancing equality of opportunity	positive	The LGBT Inclusive Education recommendations include a recommendation to review Relationships, Sexual Health and Parenthood education (RSHP) teaching guidance. This is currently out for public consultation. Inclusive RSHP education has scope to recognise that trans men and non-binary individuals can also experience pregnancy.
Promoting good relations	none	The LGBT Inclusive Education recommendations may help create a dialogue and raise awareness which could foster better relationships amongst students, teachers, and parents.

Race	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>On 1 June 2023 we published a Participation and Engagement Plan for children and young people describing how the voices of children, including LGBTQI+ children, will be embedded in the development delivery of Bairns' Hoose in Scotland will improve our understanding of the needs of non-binary children who access crisis support services, and help to remove barriers to access.</p> <p>We will engage directly with LGBTQI+ organisations and this engagement will inform the development of our impact assessments. This includes a Children's Rights and Wellbeing Impact assessment on the Bairn's Hoose Project and an Equality Impact Assessment, both of which will help shape our policy development and understand the impacts of Bairns' Hoose on specific groups including people from racialised minorities.</p>
Advancing equality of opportunity	none	The actions and related policies under this theme will not impact on advancing equality of opportunity.
Promoting good relations	positive	LGBT inclusive education is linked to the wider social justice work within education, looking more broadly at a wide range of protected characteristics. Work to challenge prejudice and stereotyping may have a positive knock-on impact on other protected characteristics. LGBT inclusive curricular content includes a racially diverse range of examples of role models and notable figures.

Religion and Belief	Impact	Rationale
Eliminating unlawful discrimination,	positive	On 1 June 2023 we published a Participation and Engagement Plan for children and young people describing how the voices of children, including

harassment and victimisation		<p>LGBTQI+ children, will be embedded in the development delivery of Bairns’ Hoose in Scotland will improve our understanding of the needs of non-binary children who access crisis support services, and help to remove barriers to access.</p> <p>We will engage directly with LGBTQI+ organisations and this engagement will inform the development of our impact assessments. This includes a Children’s Rights and Wellbeing Impact assessment on the Bairn’s Hoose Project and an Equality Impact Assessment, both of which will help shape our policy development and understand the impacts of Bairns’ Hoose on specific groups including those with religious beliefs.</p>
Advancing equality of opportunity	none	<p>The Scottish Government is satisfied that the LGBT Inclusive Education Working Group met its commitment to develop recommendations within an equalities framework that recognises children and young people's rights within intersecting identities, such as faith and belief. The information presented within LGBT inclusive education should be presented in an objective, balanced and sensitive manner within a framework of sound values and an awareness of the laws around discrimination. This will help ensure children and young people grow up to be responsible citizens within a diverse society. By receiving accurate, factual information, children and young people can form their own opinions, within their beliefs, in an open, supportive and respectful environment. Pupils are encouraged to discuss and understand their differences, and to understand how to hold contrasting beliefs in a respectful manner.</p>
Promoting good relations	none	<p>The actions and related policies under this theme will not impact on promoting good relations.</p>

Sex	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>On 1 June 2023 we published a Participation and Engagement Plan for children and young people describing how the voices of children, including LGBTQI+ children, will be embedded in the development delivery of Bairns’ Hoose in Scotland will improve our understanding of the needs of non-binary children who access crisis support services, and help to remove barriers to access.</p>

		We will engage directly with LGBTQI+ organisations and this engagement will inform the development of our impact assessments. This includes a Children’s Rights and Wellbeing Impact assessment on the Bairn’s Hoose Project and an Equality Impact Assessment, both of which will help shape our policy development and understand the impacts of Bairns’ Hoose on specific groups including girls and boys.
Advancing equality of opportunity	none	The actions and related policies under this theme will not impact on advancing equality of opportunity.
Promoting good relations	positive	LGBT Inclusive Education includes curricular content on challenging gender stereotypes.

Sexual Orientation	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>On 1 June 2023 we published a Participation and Engagement Plan for children and young people describing how the voices of children, including LGBTQI+ children, will be embedded in the development delivery of Bairns’ Hoose in Scotland will improve our understanding of the needs of non-binary children who access crisis support services, and help to remove barriers to access.</p> <p>We will engage directly with LGBTQI+ organisations and this engagement will inform the development of our impact assessments. This includes a Children’s Rights and Wellbeing Impact assessment on the Bairn’s Hoose Project and an Equality Impact Assessment, both of which will help shape our policy development and understand the impacts of Bairns’ Hoose on specific groups including LGBTQI+ children.</p>
Advancing equality of opportunity	positive	LGBT Inclusive Education is having a positive impact on increasing awareness and understanding of LGBTQI+ identities, histories, and issues faced presently and historically. This has been shown to reduce prejudice and the use of prejudicial language in schools. Positive impact on non-binary learners who may not consider themselves heterosexual.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Gender Reassignment	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>On 1 June 2023 we published a Participation and Engagement Plan for children and young people describing how the voices of children, including LGBTQI+ children, will be embedded in the development delivery of Bairns’ Hoose in Scotland will improve our understanding of the needs of non-binary children who access crisis support services, and help to remove barriers to access.</p> <p>We will engage directly with LGBTQI+ organisations and this engagement will inform the development of our impact assessments. This includes a Children’s Rights and Wellbeing Impact assessment on the Bairn’s Hoose Project and an Equality Impact Assessment, both of which will help shape our policy development and understand the impacts of Bairns’ Hoose on specific groups including LGBTQI+ children.</p>
Advancing equality of opportunity	positive	Supporting SEEMiS to implement the addition of a gender identity field will remove barriers for non-binary young people, enabling them to participate equally at school.
Promoting good relations	positive	<p>Evaluating the implementation of LGBT inclusive education in conjunction with non-binary pupils where possible will improve understanding of barriers faced by non-binary young people in education and the impact on them of Inclusive Education.</p> <p>Ongoing implementation of LGBT inclusive education is expected to improve pupils’ understanding of gender stereotypes and discrimination and prejudice including transphobia. Through focusing on the experiences of specifically non-binary learners we will be able to gauge if existing measures are effective in improving the experiences of non-binary learners, or if more needs to be done.</p>

Sport

Age	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	We don't expect there to be a significant impact on this protected characteristic from these actions. However, by encouraging governing bodies of sport to think about their offering, considering innovative and creative ways to ensure nobody is left out, this may result in a more diverse offering that appeals to a broader range of people.
Advancing equality of opportunity	none	The actions and related policies under this theme will not impact on advancing equality of opportunity.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Disability	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	We don't expect there to be a significant impact on this protected characteristic from these actions. However, by encouraging governing bodies of sport to think about their offering, considering innovative and creative ways to ensure nobody is left out, this may result in a more diverse offering that appeals to a broader range of people.
Advancing equality of opportunity	none	The actions and related policies under this theme will not impact on advancing equality of opportunity.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Marriage and Civil Partnership	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	We don't expect there to be a significant impact on this protected characteristic from these actions. However, by encouraging governing bodies of sport to think about their offering, considering innovative and creative ways to ensure nobody is left out, this may result in a more diverse offering that appeals to a broader range of people.

Pregnancy and Maternity	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	The actions and related policies under this theme will not impact on eliminating unlawful discrimination, harassment and victimisation.

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Advancing equality of opportunity	none	The actions and related policies under this theme will not impact on advancing equality of opportunity.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Race	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	We don't expect there to be a significant impact on this protected characteristic from these actions. However, by encouraging governing bodies of sport to think about their offering, considering innovative and creative ways to ensure nobody is left out, this may result in a more diverse offering that appeals to a broader range of people.
Advancing equality of opportunity	none	The EQIA on the Guidance for Transgender Inclusion in Domestic Sport noted that the Sports Council Equality Group's recognition that people from diverse ethnic communities includes trans people and that this guidance has the potential to have a positive impact on these individuals by providing opportunities for participation and competition.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Religion and Belief	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	We don't expect there to be a significant impact on this protected characteristic from these actions. However, by encouraging governing bodies of sport to think about their offering, considering innovative and creative ways to ensure nobody is left out, this may result in a more diverse offering that appeals to a broader range of people.
Advancing equality of opportunity	none	The actions and related policies under this theme will not impact on advancing equality of opportunity.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Sex	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	We don't expect there to be a significant impact on this protected characteristic from these actions. However, by encouraging governing bodies of sport to think about their offering, considering innovative and creative ways to ensure nobody is

		left out, this may result in a more diverse offering that appeals to a broader range of people.
Advancing equality of opportunity	none	The actions and related policies under this theme will not impact on advancing equality of opportunity.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Sexual Orientation	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	none	We don't expect there to be a significant impact on this protected characteristic from these actions. However, by encouraging governing bodies of sport to think about their offering, considering innovative and creative ways to ensure nobody is left out, this may result in a more diverse offering that appeals to a broader range of people.
Advancing equality of opportunity	none	The actions and related policies under this theme will not impact on advancing equality of opportunity.
Promoting good relations	none	The actions and related policies under this theme will not impact on promoting good relations.

Gender Reassignment	Impact	Rationale
Eliminating unlawful discrimination, harassment and victimisation	positive	<p>Supporting allocation of resources to offer one-to-one support to sports governing bodies that want to develop new policies for transgender participation in their sport, and delivering workshops and learning development opportunities to Scottish governing bodies of sport on the guidance for trans participation will raise awareness around transgender inclusion in sport, enabling Scottish governing bodies of sport to review and develop their policies in line with the needs of their sport.</p> <p>The EQIA on the Guidance for Transgender Inclusion in Domestic Sport¹²¹ has informed our thinking as part of the Non-Binary Equality Action Plan EQIA process. The NBEAP focuses on the delivery of actions which encourage sporting bodies to think in creative ways and ensure no one is left out. They also offer support to governing bodies who want to develop new policies to support trans and non-binary</p>

¹²¹ [Final EQIA \(equalityinsport.org\)](http://equalityinsport.org)

		participation, so this EQIA reflects the impacts of these actions specifically.
Advancing equality of opportunity	positive	Supporting allocation of resources to offer one-to-one support to sports governing bodies that want to develop new policies for transgender participation in their sport, and delivering workshops and learning development opportunities to Scottish governing bodies of sport on the guidance for trans participation will encourage SGBs to think about the needs of non-binary participants as well as develop innovative and creative ways to ensure nobody is left out. By providing new opportunities for participation, it should reduce some of the barriers for non-binary people in accessing sport and increase participation.
Promoting good relations	positive	Delivering workshops will promote better understanding of trans and non-binary people and encouraging sports to think in innovative and creative ways to ensure nobody is left out, will promote participation and raise awareness around transgender inclusion in sport. This awareness should encourage people to welcome more trans and non-binary people into sport, both at grassroots and professional levels.

Stage 4: Decision Making and Monitoring

Identifying and Establishing Any Required Mitigating Action

<p>Have positive or negative impacts been identified for any of the equality groups?</p>	<p>There are positive impacts linked to all protected characteristics in particular age, disability, and gender reassignment.</p> <p>All actions in the Non-binary Equality Action Plan have been extensively informed by research and engagement with LGBTQI+ stakeholders, through the Working Group on Non-Binary Equality, and through focus groups. The actions have been developed to positively impact trans and non-binary people especially those with intersectional protected characteristics.</p> <p>Many of the actions are linked to existing workstreams, and it is the responsibility of those who are leading on each action to develop related policies and their own more detailed EQIAs.</p> <p>The Scottish Government are committed to delivering these changes, which will improve the lives of trans and non-binary people in Scotland.</p>
<p>Is the policy directly or indirectly discriminatory under the Equality Act 2010?</p>	<p>No</p>
<p>If the policy is indirectly discriminatory, how is it justified under the relevant legislation?</p>	<p>-</p>
<p>If not justified, what mitigating action will be undertaken?</p>	<p>-</p>

Describing how Equality Impact analysis has shaped the policy making process

The evidence and data gathered to inform the Working Group on Non-Binary Equality’s report and recommendations has also informed the development of the commitments and actions in the plan.

Further research and data was gathered during focus group sessions with non-binary people which examined in detail the proposed actions. This information was

further used to develop and hone the actions to ensure that we progress equality for non-binary people in Scotland.

Monitoring and Review

The Non-Binary Equality Action Plan will be used to monitor the progress of the actions the Scottish Government have committed to delivering. As outlined in the plan we will implement an informal governance structure which includes engagement with former Group members, as well as stakeholder organisations who work to advance equality for non-binary. This more informal approach will favour flexibility over formality and will minimise the demand on community members of ongoing engagement. The choice to continue to engage on the delivery of the action plan will sit entirely with individuals and will be completely optional.

The Minister for Equalities, Migration and Refugees will also meet with individuals from the Group who have agreed to continue to engage on this work approximately every 6 months to discuss progress on the action plan, as capacity allows.

Stage 5 - Authorisation of EQIA

This Equality Impact Assessment has informed the development of the Non-Binary Equality Action Plan.

Opportunities to promote equality in respect of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation have been considered, including:

- Eliminating unlawful discrimination, harassment, victimisation;
- Removing or minimising any barriers and/or disadvantages;
- Taking steps which assist with promoting equality and meeting people's different needs;
- Encouraging participation (e.g. in public life)
- Fostering good relations, tackling prejudice and promoting understanding.

Declaration

I am satisfied with the equality impact assessment that has been undertaken for the review of the Non-Binary Equality Action Plan and give my authorisation for the results of this assessment to be published on the Scottish Government's website.

Name: Catherine McMeeken
Position: Deputy Director, Equalities
Authorisation date: 8/11/2023



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