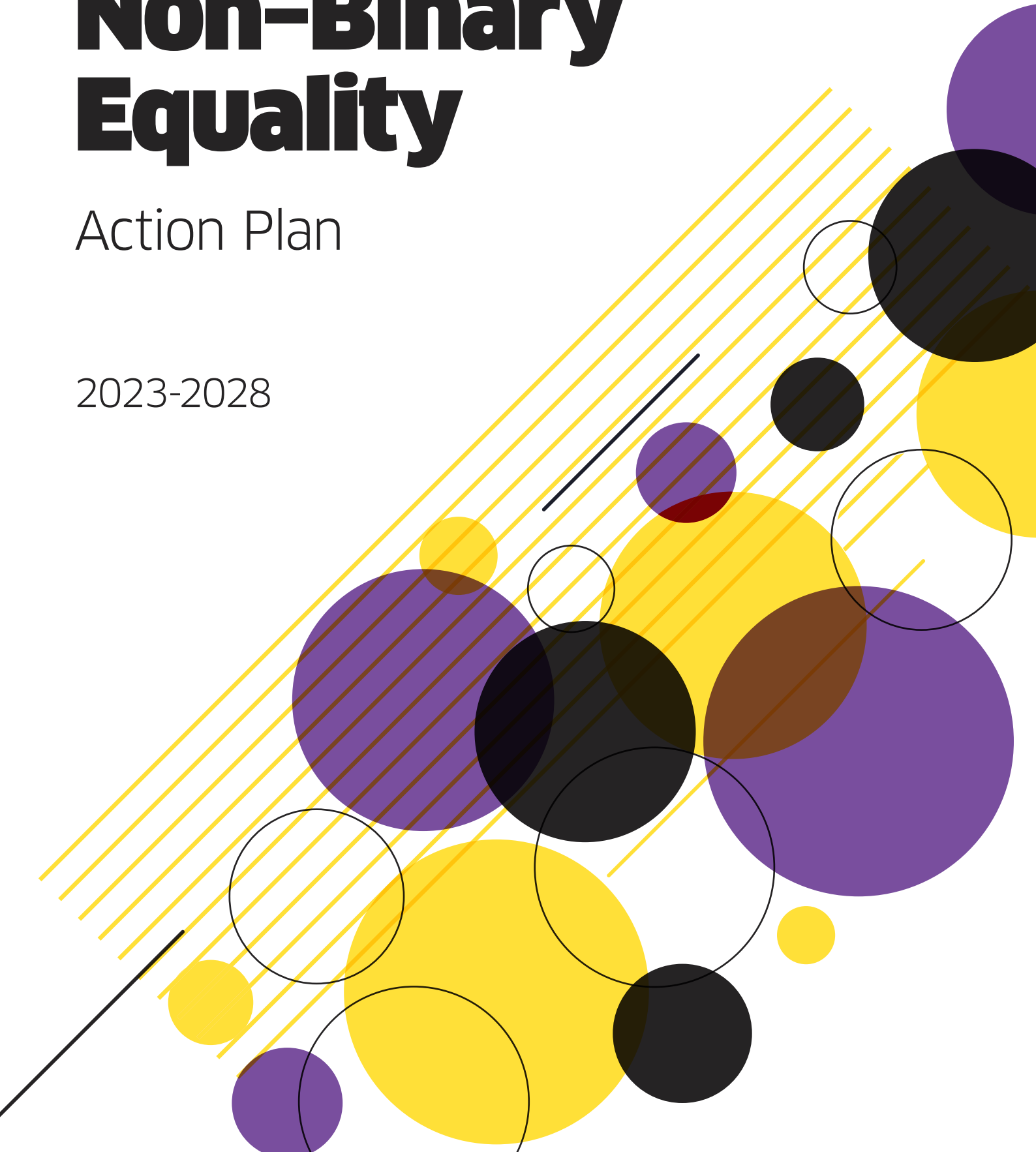


# Non-Binary Equality

Action Plan

2023-2028



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# Foreword from the Minister for Equalities, Migration and Refugees



**Emma Roddick**  
Minister for Equalities,  
Migration and Refugees

We want to ensure that Scotland remains a global leader in advancing equality, inclusion and human rights. Our vision is for Scotland to be a place where everyone's identity is recognised, respected and celebrated. It should be a place where everybody can participate, access rights and opportunities, and thrive in society. To achieve our vision, we are committed to improving the outcomes for non-binary people and the wider trans community in Scotland.

We committed to developing and publishing an action plan to improve equality and wellbeing for non-binary people, following receipt of the recommendations of the Working Group on Non-Binary Equality, as set out in the Programme for Government 2021-22 and 2023-24, as well as the Bute House Agreement. While there has been a delay, this has meant we have been able to meaningfully engage with people with lived experience throughout its development.

This five-year action plan for 2023-2028 will take us forward on our journey towards realising our vision. It sets out the actions that we will take to deliver our commitments and begin to improve the lives of non-binary people and the wider trans community in Scotland. As part of our work, we will also review and improve existing policies, wherever possible, to ensure that they effectively meet the needs of non-binary people. We will work collaboratively with those with lived experience, as well as public bodies and third sector organisations in delivering this plan.

Some actions are straightforward and immediate whilst others are long-term and systemic, so will take time. However, they will all contribute to improving the lives of non-binary people in Scotland and begin to tackle some of the challenges that they currently face in their everyday lives.

I would like to once again thank the Working Group on Non-Binary Equality for producing their report and recommendations last year, which clearly articulated the barriers and exclusion faced by non-binary people, and the steps the Scottish Government and partners could take to reducing these.

Finally, I would like to take the opportunity to thank those non-binary people and LGBTQI+ equality organisations who have helped to inform this plan and who, I hope, will continue to play an important role in advising us on its delivery over the next five years and beyond.

I look forward to working together to achieve our vision as we strive for equality for all.

# Section 1 - Context

## Introduction

Our vision is for Scotland to be a place where everyone's identity is recognised, respected and celebrated. It should be a place where everybody can participate, access rights and opportunities and thrive in society.

The Scottish Government's Non-Binary Equality Action Plan 2023-2028 ('the plan') aims to improve the lives of non-binary people in Scotland by taking steps to address inequalities and barriers faced by non-binary people.

The plan responds to **recommendations** from the Working Group on Non-Binary Equality report published in Spring 2022. It sets out the actions that we will take to deliver the commitments made in **our response**.

## Developing this Plan

This plan was developed with policy teams across government in Health and Social Care, Education and Justice and Communities. It is a shared plan that covers a range of ministerial portfolios. The advancement of equality for all is a shared responsibility across government, and in keeping with our approach to equality mainstreaming, collaboration is prioritised across all parts of government to ensure that plans such as this one address the full range of issues that marginalised groups can face.

As part of the **Equality Impact Assessment (EQIA)** process, we also held focus groups with non-binary people to gather their views on the actions in the plan. Key LGBTQI+ organisations such as the 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.

## Recommendations to Consider Further

We have now made a decision on the recommendations that we committed to consider further and these decisions have been included at **Appendix 1**. The actions developed from the accepted and partially accepted recommendations have been included in this plan.

## Definitions

A full glossary of terms can be found at **Appendix 2**.

Throughout this plan we use the term non-binary person 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.<sup>1</sup>

<sup>1</sup> **Trans terms - Scottish Trans**

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

## Data and Evidence

We work with a range of organisations who campaign for non-binary equality and gather both qualitative and quantitative data on non-binary people. However, we are aware that this data does not tell the whole story and that there are significant data gaps such as a lack of available evidence on the number of non-binary people in Scotland. Scotland’s Census 2011 did not include a non-binary question.

A new question on trans status or history was added to [Scotland’s Census 2022](#).<sup>2</sup> 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.

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 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](#). 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.

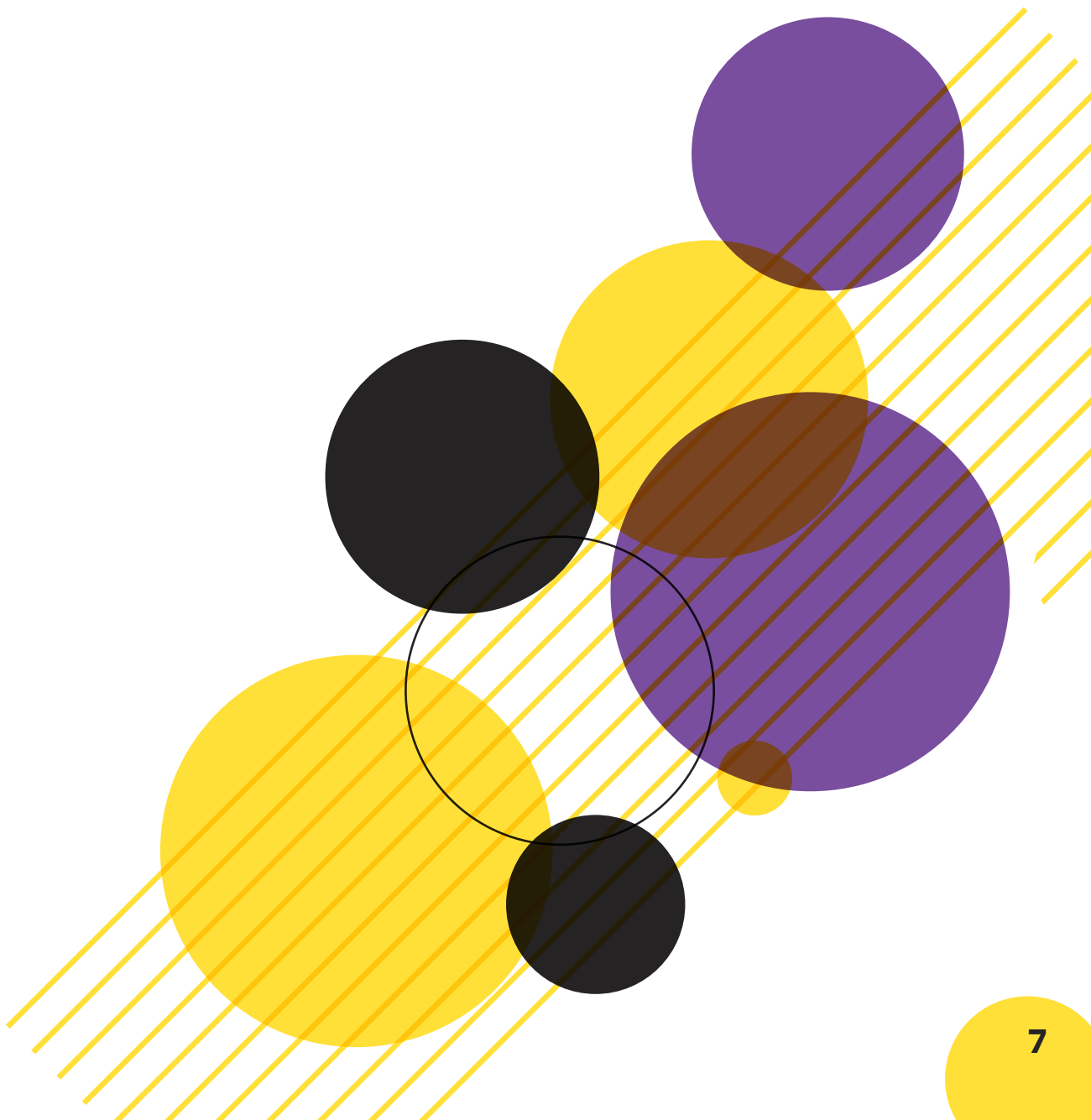
Data from [Census 2021 for England and Wales](#) show that 0.5% of the population in England and Wales have a gender identity that is different from their sex registered at birth. Of those who answered that their gender identity is different to their sex registered at birth, approximately 12% identify 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%).

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<sup>2</sup> 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.

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. The data we gather from these collections will greatly enhance our evidence base for the non-binary population.

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; 61% were aged 16-24 years compared to 5% aged 45-54. The survey sample was self-selecting, so these figures are not representative of the general population.



## Section 2 - Strategic Frameworks

### National Outcomes

As part of our **National Performance Framework** (NPF), the national outcomes outline our commitment to making Scotland a place where we “respect, protect and fulfil human rights and live free from discrimination” and “live in communities that are inclusive, empowered, resilient and safe”.

This plan is guided by the NPF and will help to deliver its national outcomes, which focus on tackling inequalities so that no one in Scotland is left behind. At the heart of the NPF, and the delivery of this plan, is the fundamental value that we are a society which treats everyone with kindness, dignity and compassion.

The national outcomes help us to focus our efforts on achieving goals that improve the wellbeing and quality of life of people of Scotland, with our focus in this plan on non-binary and trans people.

There are four outcomes within the NPF which are key to our ambition to reduce inequalities for non-binary and trans people in Scotland. These focus on the importance of respecting human rights, creating inclusive communities, being healthy and ensuring that children and young people live good lives:

- We respect, protect and fulfil human rights and live free from discrimination
- We live in communities that are inclusive, empowered, resilient and safe
- We are healthy and active
- We grow up loved, safe and respected so that we realise our full potential

We are also committed to the **United Nations Sustainable Development Goals**, which share the same aims as the NPF. This plan will help us to achieve Goal 10 to reduce inequality in our country.

### Programme for Government

This plan is the culmination of our commitments on non-binary equality in the **2019-2020**, **2020-2021**, **2021-2022** and **2023-2024** Programmes for Government as well as the **Bute House Agreement**.

### Human Rights-Based Approach

This plan is also rooted in a human rights-based approach, putting the rights and interest of people at the centre of our policies. The PANEL principles,<sup>3</sup> which are endorsed by the Scottish Human Rights Commission and the United Nations, are a useful framework to explain a human rights approach in practice.<sup>4</sup>

<sup>3</sup> The PANEL principles are one way of breaking down what a human rights-based approach means in practice. PANEL stands for Participation, Accountability, Non-Discrimination and Equality, Empowerment and Legality.

<sup>4</sup> **Human Rights Based Approach | Scottish Human Rights Commission**



## Section 3 - Setting The Scene

### 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**.

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 recommendations** 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.

The Scottish Government issued its **response** to the Group's report and recommendations in July 2022, accepting or partially accepting 24 out of 35 recommendations and committing to considering eight recommendations further. Three recommendations were declined due to not being achievable or deliverable. Decisions on the recommendations that we committed to considering further have now been made and can be found in **Appendix 1**.

### International Context

The concerning rise of anti-LGBTQI+ movements in Europe and the UK threatens to undermine the progress made towards achieving equality and human rights for all individuals, regardless of their sexual orientation or gender identity.

Despite progress being made across Europe in recent decades towards equality for LGBTQI+ people (including those non-binary people who identify as part of the wider trans community), there continues to be a "marked increase in hate speech, violence and hate crime against LGBTI people, communities and organisations".<sup>5</sup>

The Council of Europe Parliamentary Assembly highlighted that individual attacks on LGBTI people across Europe have occurred among a broader context of continued homophobia, biphobia, transphobia and interphobia which seeks to remove the human rights of LGBTI people.<sup>6</sup>

<sup>5</sup> [Combating rising hate against LGBTI people in Europe - Res. 2417 - Resolution - Adopted text \(coe.int\)](#)

<sup>6</sup> [Combating rising hate against LGBTI people in Europe - Res. 2417 - Resolution - Adopted text \(coe.int\)](#)

The Independent Expert on Protection against Violence and Discrimination based on Sexual Orientation and Gender Identity (IE SOGI), Mr Victor Madrigal-Borloz, visited the United Kingdom between 24 April to 5 May 2023. In his preliminary report, he commended Scotland's progress on LGBTQI+ equality, particularly referencing the development of this plan and our work to advance equality for non-binary people. However, he also raised concerns about "increased bias-motivated incidents of harassment, threats, and violence against LGBT people", attributing this to the "toxic nature" of ongoing public debate of these issues.<sup>7</sup>

The International Lesbian, Gay, Bisexual, Trans and Intersex Association (ILGA) also reflected similar concerns to Mr Madrigal-Borloz in its 2023 Rainbow Europe country rankings. These ratings saw the UK move down from 14th to 17th place in the rankings of European countries based on the legal and policy situation for LGBTQI+ rights in each country.<sup>8</sup> ILGA attributed this to areas of concern including bias-motivated speech, data collection, education and health.<sup>9</sup>

## Scottish Context

It is important to consider the wider context in which we are taking this work forward, at a time when communities face many severe challenges such as the cost of living crisis and recovery from the COVID-19 pandemic; crises which have been shown to more severely affect groups of people who were already facing inequality.<sup>10</sup> The current political climate is also challenging for trans and non-binary people, with LGBTQI+ equality organisations reporting that the increase in negative discussions of LGBTQI+ issues in daily life and in the media is having notable damaging effects among the LGBTQI+ community.<sup>11</sup>

The Scottish Government is committed to advancing equality for the LGBTQI+ community and has several key priorities, including the commitment to end conversion practices; work to improve gender identity healthcare and mental health services; the planned introduction of the Human Rights Bill; and the overarching commitment to continually improving the mainstreaming of equality across government.

## LGBTQI+ Equality

We continue to work with third sector equality organisations to ensure that the voices of those with lived experience can help to improve outcomes for LGBTQI+ communities across Scotland. We are funding a range of projects to tackle inequality and realise rights for LGBTQI+ people across all areas of Scottish life.

We provided funding of over £3 million to organisations working to promote LGBTQI+ equality in Scotland for 2021-2024 through the Equality and Human Rights Fund.

<sup>7</sup> [United Nations Independent Expert on protection against violence and discrimination - Country visit to the United Kingdom of Great Britain and Northern Ireland \(24 April - 5 May 2023\)](#)

<sup>8</sup> [Rainbow Europe \(rainbow-europe.org\)](#)

<sup>9</sup> [United Kingdom \(ilga-europe.org\)](#)

<sup>10</sup> [Coronavirus \(COVID-19\): impact on equality \(research\) - gov.scot \(www.gov.scot\)](#)

[Footnotes - The Cost of Living Crisis in Scotland: analytical report - gov.scot \(www.gov.scot\)](#)

<sup>11</sup> [LGBTYS LiS e-use \(lgbyouth.org.uk\)](#)

## Ending Conversion Practices

We have committed to develop a Bill on ending conversion practices for both sexual orientation and gender identity, which will be as comprehensive as possible within devolved competence. Conversion practices seek to change or suppress a person's sexual orientation and/or gender identity. They are damaging and harmful acts that violate the human rights of those who are exposed to them. We know the serious harm these practices cause, and there is no place for them in Scotland. There is no credible evidence to suggest that conversion practices can change a person's sexual orientation or gender identity.

We are also developing a package of non-legislative, supportive measures to help end conversion practices and support survivors, to sit alongside any future legislation. So far, we have provided funding to LGBT Health and Wellbeing to provide a **helpline** to support victims and survivors of conversion practices, which is now in operation. Ensuring the helpline service was established prior to the Scottish Government's consultation on legislative proposals was considered essential as the process can be traumatising for victims and survivors.

## Gender Recognition Reform

The Gender Recognition Reform (Scotland) Bill was passed by the Scottish Parliament on 22 December 2022. The Bill improves the process for obtaining a Gender Recognition Certificate in Scotland, removing barriers that currently prevent some trans people from obtaining legal gender recognition, while ensuring it continues to be a substantial and significant process. The Bill does not provide for non-binary legal recognition.

The Bill was prevented from proceeding to Royal Assent by an Order under Section 35 of the Scotland Act 1998, made by the Secretary of State for Scotland on 17 January 2023. The Scottish Ministers have challenged the Order through a judicial review. Legal proceedings are ongoing.

## Gender Identity Healthcare

Following commitments set out in the **Bute House Agreement**, reiterated in the **2021-2022**, **2022-2023** and **2023-2024** Programmes for Government, in December 2021 the Scottish Government published a **Strategic Action Framework for NHS gender identity service improvement**. This set out a series of commitments which we are currently progressing with NHS Scotland and other stakeholders.

## Mental Health

We published a new **Mental Health and Wellbeing Strategy** jointly with COSLA in June and accompanying **Delivery Plan** in November 2023. The Strategy is evidence-based, informed by lived experience, and underpinned by equality and human rights. It focuses on outcomes and is driven by data and intelligence. The scope of the Strategy is wider than our previous work in this space, with an increasing focus on wellbeing and prevention. We have also considered how the Strategy can take account of social factors and inequalities that may impact a person's mental health and wellbeing. The Strategy sets out a clear vision for a Scotland, free from stigma and inequality, where everyone fulfils their right to achieve the best mental health and wellbeing possible.

The Delivery Plan sets out actions that will help us make progress towards our vision, priorities and outcomes. It has equalities and human rights at its core, recognises the importance of taking a trauma-informed approach, and is informed by lived experience. As a cross-government document it reflects key work going on in other portfolios such as the Non-Binary Equality Action Plan.

## Human Rights Bill

We will introduce a new Human Rights Bill during the current 2023-24 parliamentary year, following a public consultation which closed on 5 October 2023.

The Bill will give effect to a wide range of internationally recognised human rights – belonging to everyone in Scotland – and strengthen domestic legal protections by making these rights enforceable in Scots law, within the limits of devolved competence. The Bill will include provision to ensure equal access for everyone to its substantive rights, including LGBTI people. There is no hierarchy of rights – all human rights, for every single person, are equally important. Equality is a fundamental principle embedded in all human rights treaties.

## Hate Crime

The Scottish Government published a new **Hate Crime Strategy** in March 2023, which sets out our vision for a Scotland where everyone lives free from hatred and prejudice and where our communities are empowered, inclusive and safe. The strategy makes a number of commitments, including ensuring improved support for victims of hate crime, improving data and evidence and developing effective approaches to preventing hate crime. It will also support implementation of the Hate Crime and Public Order (Scotland) Act 2021. We will soon publish a delivery plan setting out our immediate and longer-term activity in support of the strategy's commitments, and we are committed to supporting a range of on-going and participatory engagement to inform every stage of this.

Current hate crime law includes protection for non-binary people as part of the definition of transgender identity. However, the Hate Crime and Public Order (Scotland) Act 2021, which will come into force in early 2024, makes this clearer by updating the definition of the transgender identity to explicitly include reference to non-binary people. The Act also provides for new 'stirring up of hatred' offences covering all characteristics protected in the updated legislative framework, including for transgender identity, sexual orientation and variations in sex characteristics.

## Inclusive Education

We continue to support the use of guidance on **Supporting Transgender Young People in Schools** published in August 2021 to ensure a safe and supportive environment for all pupils. We are also committed to delivering the remaining **recommendations** of the LGBTI Inclusive Education Working Group to ensure LGBT inclusive education is embedded right across the curriculum, to promote equality, reduce bullying and improve the educational experiences of LGBT children and young people, including those who are trans and non-binary.

## Mainstreaming Equality

We are committed to continually improving how equality is mainstreamed in Scottish Government - meaning how it is built into everything we do, every day. We engaged with our key equality and human rights stakeholders, including a group of LGBTQI+ equality organisations, to help shape the work to develop a new mainstreaming strategy. It is hoped that the next iteration of the draft strategy will be ready for further consultation towards the end of 2023, with the aim of implementing the strategy in 2024.

The **Equality and Human Rights Budget Advisory Group** is a non-statutory advisory group convened by the Scottish Government and are responsible for providing strategic advice on equality budgeting processes. Alongside the Scottish Budget 2023-2024, we published an **Equality and Fairer Scotland Statement**. This set out how the government assessed the impact that the budget makes to equality and fairness, and how these considerations have influenced our spending decisions.

## Section 4 - Understanding the Plan

### Aims

Our aim is for this plan to include a wide range of deliverable actions for the period 2023-2028, which will bring about real, positive and lasting change to the lives of non-binary people in Scotland. This plan represents the beginning of our work to improve non-binary equality.

### Themes

We have separated the plan into six key themes, which are:

- Participation in Decision-Making
- Healthcare
- Legislation, Guidance, Access to Services and IT Systems
- Data and Research
- Children and Young People
- Sport

### Commitments

The plan was developed from the agreed and partially agreed recommendations in our **Scottish Government response** to the report and recommendations of the Working Group on Non-Binary Equality. Our commitments reflect the recommendations of the Working Group on Non-Binary Equality. Where we accepted a recommendation, the wording of the commitment relating to that recommendation remains the same. Where we partially accepted a recommendation, our commitment reflects the aspects of the recommendation that we accepted. The numbering of the commitments reflects that of the recommendations and the relevant commitments for each theme are included at the start of each theme section for context.

### Actions

This provides detail on what activity we will carry out to deliver the commitment.

### Impact

This shows the impact that the actions are intended to have on non-binary people, such as removing particular barriers, improving access and increasing awareness.

### Partners

This shows who we will work with to deliver the actions.

### Timescales

The timescales for delivering the actions are short term, medium term and long-term:

Short term – to be delivered by the **end of 2024**

Medium term – to be delivered by the **end of 2026**

Long-term – to be delivered by the **end of 2028 or an ongoing commitment**

## Section 5 - Monitoring and Measuring our Progress

### Governance

We recognise the importance of being accountable for our progress on implementing the actions in this plan and realising the commitments.

We will implement an informal governance structure which includes engagement with former Group members and non-binary people, as well as stakeholder organisations who campaign for non-binary equality. This more informal approach will favour flexibility over formality and will minimise the demand on community members of ongoing engagement. The choice to engage on the delivery of the plan will sit entirely with individuals.

### Monitoring and Evaluation

Despite making progress in recent years, we recognise that there remain gaps in the non-binary equality evidence base. Many data sets used by the Scottish Government, such as population surveys, cannot currently produce robust data for smaller groups in Scotland's population including non-binary people. Where evidence is available, this is presented on the Scottish Government's **Equality Evidence Finder** platform. It is anticipated that priority evidence gaps for non-binary people will be identified, agreed and filled in the coming years, including through the actions set out in this plan.

Progress towards achieving the actions set out in this plan will be regularly monitored and reported on annually, and additional evidence gathering will be considered to inform our understanding of the impact of the plan on the lives of non-binary people in Scotland.

The **National Performance Framework** (NPF) is the strategic wellbeing framework for all of Scotland. It consists of 81 National Indicators that measure progress towards the 11 National Outcomes that describe the kind of Scotland in which we all want to live. The NPF does not own the data that supply the National Indicators, thus we are reliant on what is collected by the data owners in regards to what we can report. The data sets that supply the NPF do not currently include data on non-binary people. We provide available equality data via the NPF database that can be downloaded from our website and we also provide links to the Equality Evidence Finder where further equality evidence may be available.

### Reporting

We will publish an annual report on the Scottish Government website, which will provide detail on the progress we are making on the objectives and actions in this plan.

In addition, we will report our progress to the former members of the Group, and provide their feedback to relevant Scottish Government officials to consider in taking forward their actions.

The Minister for Equalities, Migration and Refugees will also meet with the group to discuss progress on the plan, as capacity allows.

# Vision, Values, Outcomes and Objectives

Vision		
<p>Our vision is for Scotland to be a place where everyone's identity is recognised, respected and celebrated. It should be a place where everybody can participate, access rights and opportunities and thrive in society.</p>		
Values		
<p>We are a society which treats all our people with kindness, dignity, and compassion, respects the rule of law and acts in an open and transparent way.</p>		
National Outcomes		
<p>Human Rights: we respect, protect and fulfil human rights and live free from discrimination.</p> <p>Communities: we live in communities that are inclusive, empowered, resilient and safe.</p> <p>Health: we are healthy and active.</p> <p>Children and Young People: we grow up loved, safe and respected so that they realise their full potential.</p>		
Objectives		
Participation in Decision-Making	Healthcare	Legislation, Guidance, Access to Services and IT Systems
Non-binary people feel more empowered and able to participate in decision-making regardless of their socio-economic background.	Non-binary people are increasingly able to access high quality, person centred healthcare they need, at a place and time that is appropriate for them.	The development of legislation, guidance and policy takes into account the non-binary community and removes barriers to non-binary people accessing services.
Data and Research	Children and Young People	Sport
More robust and comprehensive data and evidence will be gathered on the characteristics and experiences of non-binary people in Scotland.	Schools and support services have more inclusive processes and practices that take into account the needs of non-binary children and young people.	Non-binary people increasingly feel able to take part in sport.



# Section 6 - Actions

## 1. Participation in Decision-Making

### Objective

Non-binary people feel more empowered and able to participate in decision-making regardless of their socio-economic background.

### Context

To improve the lives of non-binary people, we must meaningfully involve them in our decision-making so that they have the opportunity to fully participate in decisions that affect their lives. We need to remove barriers, address power imbalances, make our decision-making processes accessible and pay people for their time and contributions.

Ensuring genuine participation in decision-making for non-binary people will result in policy-making and legislation that is more inclusively designed and underpins all the commitments, and their related actions, in this plan.

The **Participation Framework** was developed as part of Scotland’s Open Government commitments to improve the way people are involved in Scottish Government policy-making and service delivery. It is a toolkit that Scottish Government staff can refer to when making decisions about participation within their policy area.

It guides good practice in participation across government by:

- informing staff about participation, participatory methods and when to use them
- providing a guide to developing an effective participation strategy
- supporting informed conversations with colleagues and analysts to develop and deliver effective participation signposting to further resources

This aligns with our Scottish Approach to Government, which sets out ways that people can participate to influence policy, service design and decision-making. This approach is based on two key principles: that people have the right to contribute to, and to influence, the decisions that affect their lives, choices and life chances; and that involving the people likely to be affected by the decision in the process results in better decision-making.

### Commitment

Our commitments reflect the recommendations of the Working Group on Non-Binary Equality. Where we accepted a recommendation, the wording of the commitment relating to that recommendation remains the same. Where we partially accepted a recommendation, our commitment reflects the aspects of the recommendation that we accepted. The numbering of the commitments reflects that of the recommendations. The commitment used to develop this section of the plan is as follows:

Commitment 1	Meaningfully include marginalised people in decision-making by making processes accessible, including through financially compensating individuals for their time and contributions, and by prioritising the participation of people who are marginalised in multiple ways.
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**■ Participation in Decision-Making**

Actions	Commitment	Timescales	Impact
<p>1.1 We will develop guidance and a process for paying participant expenses<sup>12</sup> and compensating participants for their time when taking part in projects.</p>	<p>1</p>	<p>Short Term</p>	<p>This will remove some barriers that multiply marginalised people (including non-binary people) experience, enabling them 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.</p> <p>This recognises that multiply marginalised people often face higher costs for their involvement.</p> <p>Addressing some of these barriers will result in policy making and legislation that is more inclusively designed.</p>
<p>1.2 We will seek to influence Department for Work and Pensions (DWP) with the aim that payment for involvement in participatory projects does not negatively impact those who are claiming DWP benefits.</p>	<p>1</p>	<p>Short Term</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>1.3 We will continue to improve the Scottish Government’s Participation Framework, starting with a focus on improving its coverage of inclusive practice.</p>	<p>1</p>	<p>Short Term</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.</p>

<sup>12</sup> We use a broad definition of expenses, including all travel and subsistence, child care and PA/support worker expenses and time. Compensation for time reflects the commitment participants have made to be involved in projects.

## ■ 2. Healthcare

### Objective

Non-binary people are increasingly able to access high-quality, person-centred healthcare they need, at a place and time that is appropriate for them.

### Context

Evidence from 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. These included general healthcare services, mental health services and sexual health services. 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%).

The report also found that 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%).

Non-binary respondents were more likely to report that their GP had not been supportive. They were more likely to have been worried or anxious about going to their doctor compared to other transgender identities when accessing mental health services.

The UK's largest trans study of 889 trans individuals across the UK, **Trans Mental Health Study 2012**, found very high rates of mental health issues among transgender people, with 88% of respondents showing symptoms of depression and 75% of anxiety, compared with 20% of people in the UK general population.

The supplementary report on trans and non-binary people for the **Health Needs Assessment LGBT+ People Report** also highlights that there is significant evidence to indicate that trans and non-binary people in Scotland were at "particular risk" of experiencing mental health problems and "were more likely than others to have an illness or disability".

The **National LGBT Survey** and the **Life in Scotland for LGBT Young People 2022 report** showed that non-binary respondents were less likely to have accessed specialist gender services compared to trans men and trans women both in Scotland and across the UK.

Access to healthcare is one of the key issues for trans and non-binary people and it was a major focus of the recommendations from the Group.

We need to improve the way that transition-related healthcare is delivered. We need to improve access to and delivery of adult and young people's gender identity services and have already committed to do so with a series of actions outlined in the **NHS gender identity services: strategic action framework 2022-2024**.

We need to make changes to access to healthcare to help improve the health and wellbeing outcomes for trans and non-binary people, which are significantly worse compared to others in Scotland and the UK. Crucially, we need to work with trans and non-binary people to do this. We must listen to their voices and empower them to make decisions about their own healthcare. Everyone should have equal access to healthcare and we must make these improvements to ensure that no one experiences barriers to accessing the services that they need in a timely manner.

Healthcare services should be of a consistent and high-quality standard across Scotland, with equal access for all, whether this be mental health support, sexual health services or fertility preservation. Relevant information and guidance must also be available to help trans and non-binary people make informed decisions about their own healthcare, for example on fertility preservation. Healthcare practitioners must have relevant training in the specific healthcare needs of trans and non-binary people, including on mental health, so that they have the knowledge and skills to deal with their particular needs.

### Commitments

Our commitments reflect the recommendations of the Working Group on Non-Binary Equality. Where we accepted a recommendation, the wording of the commitment relating to that recommendation remains the same. Where we partially accepted a recommendation, our commitment reflects the aspects of the recommendation that we accepted. The numbering of the commitments reflects that of the recommendations. The commitments used to develop this section of the plan are as follows:

### Gender Identity Healthcare

Commitment 2	Transform the way transition-related healthcare is delivered in Scotland, and designing services collaboratively with trans and non-binary people.
Commitment 3	Develop national standards for gender identity services that are accountable and enforceable.
Commitment 4	Engage with Health Boards to consider sustainable funding for transition-related healthcare beyond the current commitment to the end of 2024.
Commitment 5	Ensure that trans and non-binary people have equal access to transition-related healthcare.
Commitment 6	Transition-related healthcare to be in accordance with current NHS Scotland referral to treatment standards.
Commitment 12	Consider treatment pathways so that access to primary care support and referral is equitable for all patients.

## Mental Health and Primary Care

**Commitment 7** Ensure person-centred mental health services and support is available for trans and non-binary people.

**Commitment 8** Fund mandatory training for mental health providers on trans and non-binary healthcare needs.

**Commitment 9** Conduct robust Equality Impact Assessments for mental health policies and actions, ensuring that they address the specific needs of trans and non-binary people.

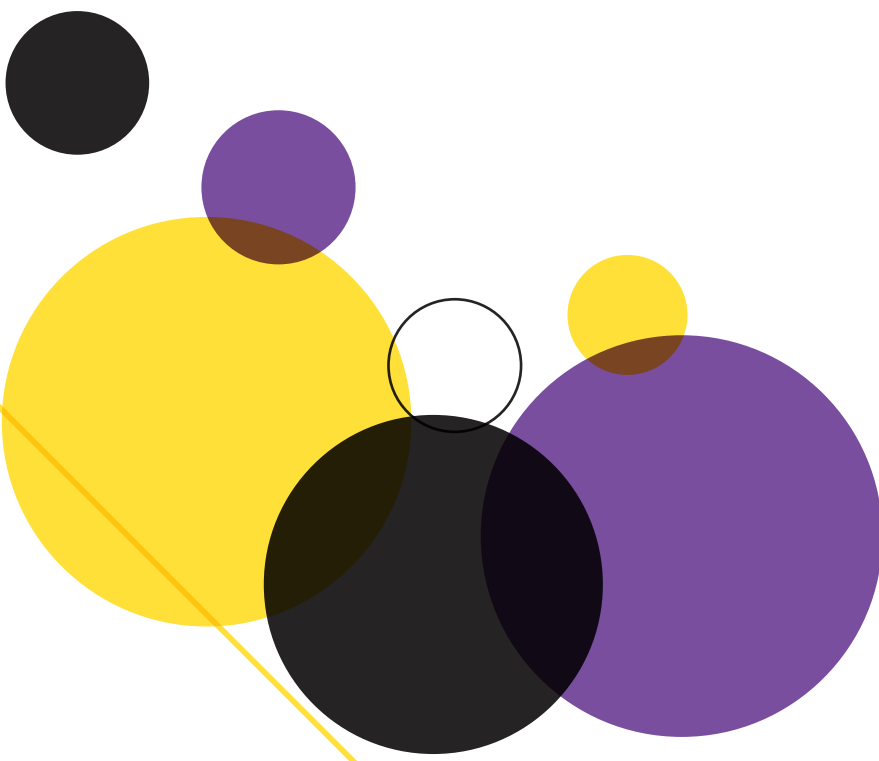
**Commitment 11** Fund mandatory training for primary care providers on trans and non-binary healthcare needs.

## Fertility Preservation

**Commitment 13** Ensure that trans and non-binary people have equal access to fertility preservation treatments, including access to the information needed to make informed choices.

**Commitment 14** Work with the UK Government to provide clarity to trans and non-binary people about their legal rights regarding fertility preservation, access to assisted reproduction services, and status when creating families, and work to prevent discrimination in realising these rights.

**Commitment 15** Fund training for fertility preservation providers on trans and non-binary healthcare needs.



■ **2.1. Gender Identity Healthcare**

This section is set out differently to the rest of the plan as we believe that all of the accepted and partially accepted recommendations relating to gender identity healthcare are being taken forward as part of ongoing work.

Under the commitments, instead of setting out actions, we have explained why we believe the commitments are addressed by work currently underway and how we are considering the needs of non-binary people. Partners for this work include NHS Health Boards hosting gender identity clinics, Healthcare Improvement Scotland, Public Health Scotland, NHS National Services Scotland and NHS Education for Scotland.

The specific commitments made in response to the recommendations from the Working Group on Non-Binary Equality are addressed below. However, for the purposes of this plan and to avoid unnecessary duplication across Scottish Government and NHS Scotland, these commitments are being progressed substantively as part of the three-year **Strategic Action Framework for NHS gender identity service improvement** published in 2021. As our framework runs until late 2024, we envisage that most of this work will be completed in the short term (end of 2024) with the rest in the medium term (end of 2026).

The aims and ongoing actions as part of the framework are consistent with the purpose and aims of this Non-Binary Equality Action Plan. All commissions made as part of the framework’s work have been inclusive of non-binary identities.

Commitment 2	Transform the way transition-related healthcare is delivered in Scotland, and designing services collaboratively with trans and non-binary people.
<p>Improving access to, and delivery of, NHS gender identity services is a dedicated Bute House Agreement commitment. 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>As part of this substantive work already well underway, Scottish Government published the <b>NHS gender identity services: strategic action framework 2022-2024</b> (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>To oversee implementation of the Framework’s actions, a National Gender Identity Healthcare Reference Group 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>People with lived experience and their representatives are involved in all aspects of this work. 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>	

Commitment 2 (continued)	Transform the way transition-related healthcare is delivered in Scotland, and designing services collaboratively with trans and non-binary people.
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Consistent with this aim, Scottish Government awarded a grant to Scottish Trans, part of the Equality Network, to host a Lived Experience Coordinator. The Lived Experience Coordinator’s role is to proactively engage with trans, including non-binary, people across Scotland who have accessed, or are waiting to access, gender identity healthcare, and to represent their voices across national workstreams.

In addition to the input from the Lived Experience co-ordinator, individual workstreams are collaborating with trans, including non-binary, people in the development of their work:

- Lived experience representatives are on the development group for Healthcare Improvement Scotland for developing standards of care for adult and young people’s gender identity services;
- NHS Education for Scotland are working with people with lived experience as part of their development group for the transgender healthcare knowledge and skills framework for all health and social care staff;
- Public Health Scotland hosted focus groups facilitated by the Lived Experience Co-ordinator to enable trans, including non-binary, people to provide input in relation to the collection, storage and sharing of waiting times data.

This substantive work and its progression is aligned with the aims and vision of this Non-Binary Equality Action Plan.

Commitment 3	Develop national standards for gender identity services that are accountable and enforceable.
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As part of its overall aim to improve access to, and delivery of, gender identity healthcare the Scottish Government has commissioned Healthcare Improvement Scotland to develop national standards of care for adult and young people’s gender identity services.

These standards will be shaped by the experiences of people who have accessed or are waiting to access gender identity services.

The standards will support health and social care organisations to improve the quality and consistency of care and support they deliver to trans, including non-binary, people. The standards will outline what people should expect from gender identity healthcare services. They will cover key issues relating to the provision of safe, effective and person-centred care and treatment.

Commitment 4	Engage with Health Boards to consider sustainable funding for transition-related healthcare beyond the current commitment to the end of 2024.
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Work underway with NHS Scotland partners includes direct allocation of Scottish Government funding to NHS Health Boards to implement long term improvements to gender identity services.

Since December 2022, the Scottish Government has allocated approximately £2.8 million of additional funding to support gender identity service improvement. This includes funding to territorial Health Boards who provide gender identity clinics as well as a range of work with Healthcare Improvement Scotland, Public Health Scotland and NHS Education for Scotland to ensure services delivered are sustainable, evidence-based and person-centred. This work will create the foundations for longer-term service improvement.

Commitment 5	Ensure that trans and non-binary people have equal access to transition-related healthcare.
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The Scottish Government believes that it is important that anyone exploring their gender identity should be able to access the right support at the right time when they need it. This includes non-binary people.

NHS Education for Scotland are developing a transgender healthcare knowledge and skills framework for all healthcare staff, and will explore resources and opportunities for training to support trans, including non-binary, patients accessing NHS care.

This work will clarify expectations of knowledge for staff providing different levels of NHS care for all trans, including non-binary, people and will scope available resources and training opportunities for NHS staff. This will ensure trans and non-binary people are given equal access to healthcare in line with the vision of the Non-Binary Equality Action Plan.

Commitment 6	Transition-related healthcare to be in accordance with current NHS Scotland referral to treatment standards.
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As part of the Bute House Agreement the Scottish Government has committed to bring NHS Scotland gender identity services within national waiting times standards.

Furthermore, the Scottish Government has commissioned Public Health Scotland to improve data reporting for gender identity services, to establish robust national waiting times data collection, monitoring and reporting.

Working with NHS Scotland Health Boards, Public Health Scotland are putting in place processes and procedures that will enable publication of quarterly data on gender identity clinic waiting lists.



Commitment 12

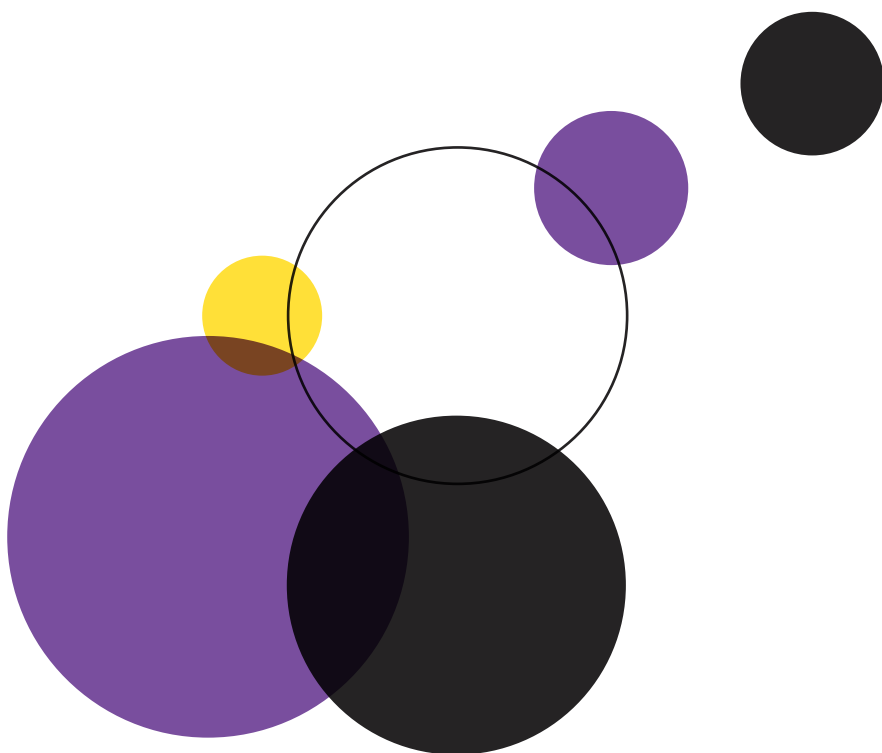
Consider treatment pathways so that access to primary care support and referral is equitable for all patients.

Aligned with the aims of the Non-Binary Equality Action Plan, NHS Education Scotland is working to develop a transgender healthcare knowledge and skills framework for all NHS Scotland staff. This will clarify expectations for knowledge for staff providing different levels of NHS care, to help provided a better experience for trans people in Scotland and will be fully inclusive of non-binary people.

Alongside this Healthcare Improvement Scotland are developing national standards for adult and young people’s gender identity services. This will contribute to ensuring a consistent service is available across Scotland for trans, including non-binary, people accessing gender identity healthcare.

Primary care in Scotland is mostly provided by independent contractors who are required to be members of various regulated professions. The Scottish Government does not mandate what specific training these professionals have, only that they are members of their profession in good standing. They would be expected to undertake Continuous Professional Development and to be able to assure the relevant regulatory bodies that they are up to date with current best practice at the junctures required by those bodies.

The Scottish Government does not determine the referral pathways used by clinicians in primary care. These are determined at a Health Board level and will reflect local circumstances and requirements. The Scottish Government would expect these pathways to be up to date with current best practice.



■ 2.2. Mental Health and Primary Care

Actions	Commitment	Timescales	Impact	Partners
<p>3.1 We will work with NHS Boards, councils and integration authorities 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>7</p>	<p>Medium Term</p>	<p>This will strengthen local accountability and mental health services that take into account health inequalities.</p>	<p>NHS Scotland  Third sector equality organisations</p>

Actions	Commitment	Timescales	Impact	Partners
<p>3.2 We recently published quality standards for mental health services. These standards will initially apply to adult secondary mental health services and we will work with mental health services more widely to explore how the Core Mental Health Standards could apply across a wider range of services in the future. Building on the work of the CAMHS service specification, a national service specification for Psychological Therapies and Interventions has also been published and a specification for Eating Disorder services is currently in development.</p> <p>The standards have an equalities, human rights and person-centred approach. We expect them, alongside strengthened local accountability, to support how health inequalities are addressed at a local level and effect change to mental health service delivery.</p>	7	Medium Term	<p>These standards aim to improve the quality and safety of mental health services and the delivery of psychological therapies and interventions for all groups, including for trans and non-binary people. Services should take account of the needs of equalities groups when implementing the standards.</p>	<p>Mental Health Quality and Safety Board</p> <p>NHS Health Boards</p> <p>Third sector partners, including Mental Healthy Equality Forum</p>

Actions	Commitment	Timescales	Impact	Partners
<p>3.3 We will continue to develop 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. This will ensure that they address both the challenges facing the mental health and wellbeing workforce as well as ensuring that the workforce are supporting the needs of trans and non-binary people.</p>	<p>8</p>	<p>Medium Term</p>	<p>This will ensure the vision, outcomes and commitments in the forthcoming strategy and action plan are underpinned by a diverse, resilient, skilled and sustainable workforce. This will allow workers to feel valued and supported and able to promote and provide better mental health and wellbeing outcomes for the people of Scotland, including trans and non-binary people.</p>	<p>Employers  NHS Education Scotland</p>
<p>3.4 We will improve Equality, Diversity and Inclusion training for the Mental Health and Wellbeing workforce to incorporate up to date messaging within existing training and relevant information on equalities, including non-binary, transgender and LGBTQI+ equality.</p>	<p>8</p>	<p>Medium Term</p>	<p>This will ensure practitioners are more aware of and can offer more culturally competent and sensitive support and services to better meet the needs of specific groups, including LGBTQI+ people.</p>	

Actions	Commitment	Timescales	Impact	Partners
<p>3.5 We will look closely at developing capability and capacity in the completion of Equality Impact Assessments (EQIAs) as part of the programme of equalities and human rights work being taken forward in the Scottish Government's Mainstreaming Strategy.</p>	<p>9</p>	<p>Short Term</p>	<p>This will ensure that equality and inclusion is fully embedded in all aspects of policy making.</p>	
<p>3.6 We will put in place structures within the Mental Health Directorate to ensure we meet Commitment 9 going forward as part of the programme of work being taken forward by the Mental Health Equality Champion Network.</p>	<p>9</p>	<p>Short Term</p>	<p>This will ensure the needs of protected groups are being considered, including trans and non-binary people, when new or revised policies are introduced.</p>	
<p>3.7 We have commissioned NHS Education Scotland to develop a transgender healthcare knowledge and skills framework for NHS Scotland staff, including those working in primary care and mental health services.</p>	<p>5, 11, 12</p>	<p>Medium Term</p>	<p>This will clarify expectations for knowledge for staff providing different levels of NHS care. It will also scope available resources and training opportunities for NHS staff.</p>	<p>NHS National Services</p> <p>NHS Education Scotland</p> <p>NHS Boards</p>

■ 2.3. Fertility Preservation

Actions	Commitment	Timescales	Impact	Partners
4.1 We will develop patient information leaflets for fertility preservation by 2024.	13	Short Term	This will promote equitable access to information on fertility preservation treatments, which will enable trans and non-binary people to make informed decisions as to whether fertility preservation is something they wish to consider (not all will want a family) before starting treatment or undergoing surgery.	NHS Scotland
4.2 We will finalise and implement the fertility preservation guidance for all groups of patients that may require access by 2024.	13, 14	Short Term	This will make information on fertility preservation easier to access and more coherent, empowering trans and non-binary people to make informed decisions.	NHS Scotland
4.3 NHS Inform will be updated with information on fertility treatments (assisted reproduction services) that are available for trans and non-binary people in Scotland by 2024.	14	Short Term	This will ensure that information on fertility services is easier to access and more coherent, empowering trans and non-binary people to make informed decisions.	NHS Inform  Fertility Scotland National Network

Actions	Commitment	Timescales	Impact	Partners
<p>4.4 Fertility Scotland National Network will arrange training webinars once the fertility preservation guidance has been published for early 2024.</p>	<p>15</p>	<p>Short Term</p>	<p>This will ensure fertility preservation providers and those referring to the service have the knowledge and skills needed to support trans and non-binary people accessing fertility preservation treatments.</p>	<p>NHS Scotland</p> <p>Fertility Scotland National Network</p>

### 3. Legislation, Guidance, Access to Services and IT Systems

#### Objective

The development of legislation, guidance and policy takes into account the non-binary community and removes barriers to non-binary people accessing services.

#### Context

We need to ensure that non-binary people do not face barriers in accessing their legal rights and protections. We will ensure that future Scottish legislation, in general, does not use unnecessarily gendered terminology or assumptions across the law.

We will carry out research on how legal gender recognition of non-binary people could work in Scotland. We also want to make it easier for trans and non-binary people to change their name.

We also want to ensure that non-binary people are able to access services and feel that their identities are respected.

We want to make sure that we have guidance in place to assist service providers when reviewing and developing new IT systems to make them more inclusive of non-binary people, where possible, including a review to the CHI number system in health settings.

#### Commitments

Our commitments reflect the recommendations of the Working Group on Non-Binary Equality. Where we accepted a recommendation, the wording of the commitment relating to that recommendation remains the same. Where we partially accepted a recommendation, our commitment reflects the aspects of the recommendation that we accepted. The numbering of the commitments reflects that of the recommendations. The commitments used to develop this section of the plan are as follows:

#### Legislation, Guidance and Access to Services

Commitment 19	Produce clear guidance about name changes for trans and non-binary people.
Commitment 25	Ensure that future legislation does not further entrench unnecessarily gendered terminology or assumptions across the law.
Commitment 26	Review the use of, and take action to remove, unnecessary gender markers from identity documents, including by working with the UK Government to take action where ID is administered on a UK-wide basis.
Commitment 30	Work with Violence against Women and Girls (VAWG) and LGBTQI+ stakeholders to ensure that the needs of non-binary people experiencing gender-based violence are fully understood and consider their needs in a way that protects both VAWG policy and non-binary people through the Equally Safe refresh.



## IT Systems

Commitment 10	Review the use of a sex code in Community Health Index (CHI) numbers and enable non-binary people to be recognised in medical records.
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Commitment 21	Review of new or enhanced IT systems that are within scope of the <b>Technology Assurance Framework</b> .
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■ 3.1. Legislation, Guidance and Access to Services

Actions	Commitment	Timescales	Impact	Partners
<p>5.1 We will produce guidance for individuals, including for trans and non-binary people, on how to change your name in Scotland.</p>	<p>19</p>	<p>Short Term</p>	<p>This will clarify the process for individuals looking to change their name.</p>	<p>National Records of Scotland</p>
<p>5.2 Trans and non-binary inclusion issues will continue to be considered as we continuously review our internal Equality Impact Assessment (EQIA) guidance. In live training and coaching sessions, we will explicitly prompt policy teams to consider impacts on trans and non-binary people when conducting EQIAs. This will ensure that their needs are actively and thoughtfully addressed, upholding their rights under the Equality Act 2010.</p>	<p>25</p>	<p>Medium Term</p>	<p>This will ensure the impact on non-binary people is fully understood when changes to law and policies are being considered.</p>	
<p>5.3 We will continue to follow the ongoing policy to use gender neutral language in all legislative drafting. The latest published edition of the drafting guidance, <b>Drafting Matters!</b>, includes an express reference to non-binary people in regards to the use of gender-specific pronouns as well as alternatives to gender-specific nouns.</p>	<p>25</p>	<p>Medium Term</p>		

Actions	Commitment	Timescales	Impact	Partners
5.4 We will develop a reusable Digital Identity Service, which would reduce the need for repeated use of traditional identity documentation, which may include gender markers, and reduce the need for organisations to verify and store unnecessary information about individuals when providing services to them. <sup>13</sup>	26	Medium Term	This would reduce the need for organisations to verify and store unnecessary information for service provision, which may include gender markers.	Disclosure Scotland  Public Sector Organisations
5.5 We will assess the suitability of emerging UK and International frameworks for the development of standards based digital identities.	26	Short Term		

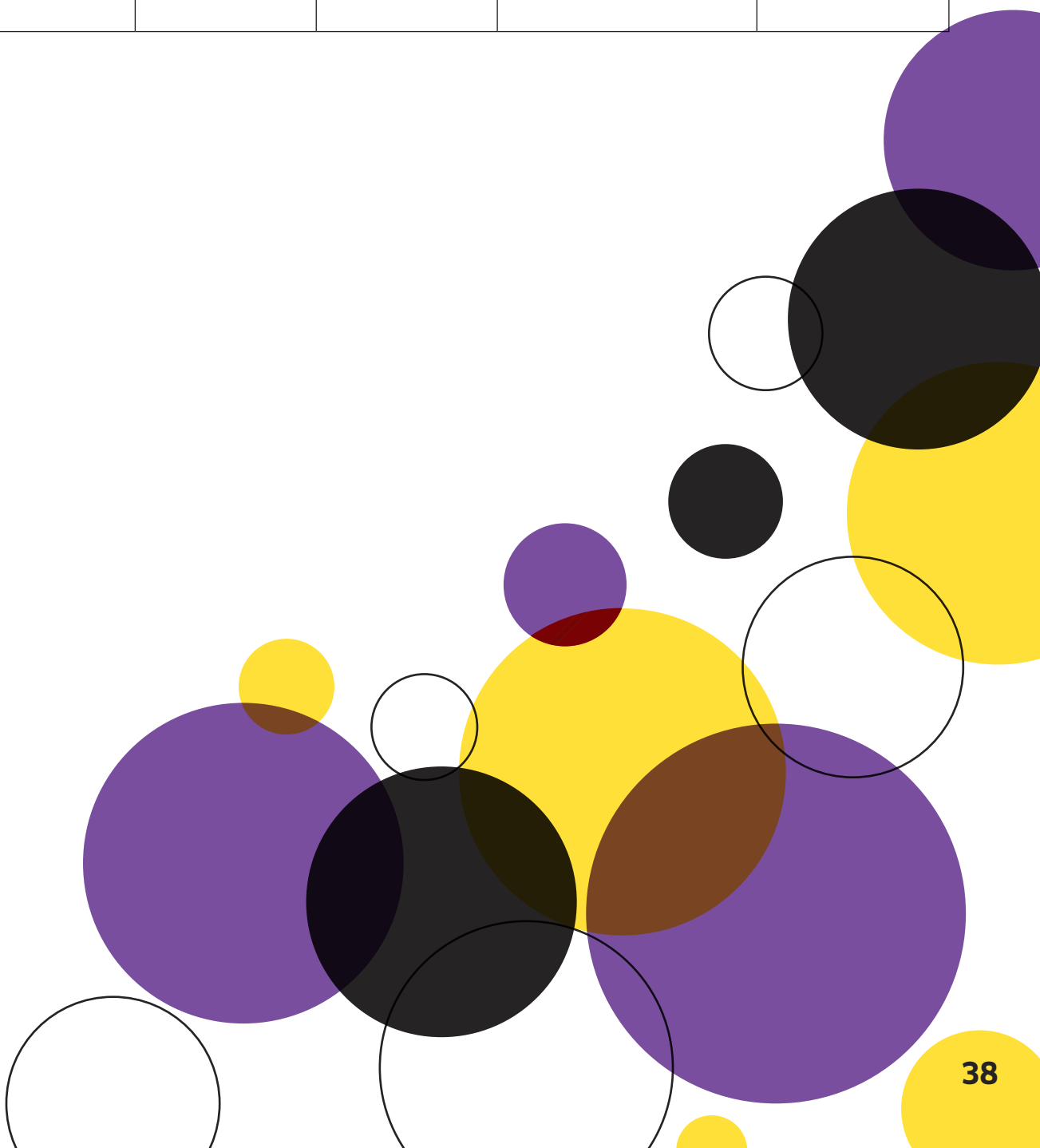
<sup>13</sup> We are committed to improving access to public services across Scotland. To do this, we are developing a digital identity service – ScotAccount. The main aim of ScotAccount is to improve people’s access to public services, by providing them with a safe, reusable, and easy way to prove who they are or what services they are eligible for. The service is privacy protecting and secure. Once someone has proven their identity they don’t need to do it again and it can be reused with another public service (reducing the need to use documents such as passports repeatedly to access services).

Actions	Commitment	Timescales	Impact	Partners
5.6 We will explore non-binary people's experience of the continuum of gender-based violence in order to develop a greater understanding on which to build an evidence-based approach to policy making, service provision and funding.	30	Short Term	We will have a better understanding of non-binary people's experience of gender-based violence to inform policymaking.	VAWG stakeholders  LGBTQI+ Stakeholders  Health Stakeholders
5.7 We will consult with VAWG and LGBTQI+ organisations within the engagement process of the Equally Safe strategy refresh.	30	Short Term		

■ 3.2. IT Systems

Actions	Commitment	Timescales	Impact	Partners
<p>6.1 We will complete an initial review with relevant policy colleagues and the Chief Medical Officer (CMO) the end of April 2024 to understand how the demographic information held in the new CHI system might reflect the range of non-binary definitions, and explore options, including in other core health systems.</p>	<p>10</p>	<p>Short Term</p>	<p>We will have a better understanding of the impact of changing the information held in CHI and use this initial review to inform our approach.</p>	<p>Chief Medical Officer</p> <p>Chief Scientist Office</p> <p>NHS National Services Scotland</p> <p>National Digital Platform</p>
<p>6.2 We will complete a review with the Chief Medical Officer by end April 2024 in the context of Scotland's Data Strategy for Health and Social Care on the wider clinical impact of amendments to the CHI number.</p>	<p>10</p>	<p>Short Term</p>		
<p>6.3 We will complete a review by end December 2023 on lessons learned from our current work on the new CHI project.</p>	<p>10</p>	<p>Short Term</p>		

Actions	Commitment	Timescales	Impact	Partners
<p>6.4 We will ensure new online services are independently assessed to ensure they follow set standards. This assessment will review the approach the team have taken and ensure that any actions identified for non-binary people have been followed through.</p>	<p>21</p>	<p>Medium Term</p>	<p>This will ensure that new online services have assessed the needs and impacts of the services on non-binary people.</p>	<p>LGBTQI+ Stakeholders  Public Sector organisations</p>



## ■ 4. Data and Research

### Objective

More robust and comprehensive data and evidence will be gathered on the characteristics and experiences of non-binary people in Scotland.

### Context

The Scottish Government is aware that there are many costs and challenges to collecting, analysing and reporting equality data and there remain significant gaps in Scotland's evidence base on non-binary people in Scotland.

We need to improve how we collect data and evidence so that we gather better insights into the experiences of the non-binary population. This will allow us to develop more inclusive evidence-based policies, which will improve service delivery and outcomes for non-binary people in Scotland. This work must be informed by third sector equality organisations and non-binary people, who can help to identify gaps and co-design subsequent research, as required.

Following the conclusion of the Equality Evidence Strategy 2017-2021, the Equality Data Improvement Programme (EDIP) was launched in April 2021 to lay the groundwork for the development of an ambitious cross-professional data improvement plan for the future. The EDIP built on the work being taken forward by individual analytical areas to produce evidence, guidance, best practice and enhanced networks to improve equality data in the short term.

The first phase of the EDIP concluded with the publication of **Scotland's Equality Evidence Strategy**, covering the period March 2023 to December 2025. The strategy includes a refreshed vision and principles and a comprehensive action plan for strengthening the equality evidence base across all ministerial portfolios of the Scottish Government and in National Records of Scotland (NRS). The strategy was developed with stakeholder views and feedback at its heart. In July 2022 we launched a **public consultation** on a draft improvement plan that sets out key milestones and priorities to filling equality gaps by the end of 2025, which will form the basis of the new strategy, and carried out a series of stakeholder engagement events.

We need to make improvements to when and how services collect data on trans and non-binary people. This includes supporting services to understand when it is appropriate to ask questions on sex and gender and how to do this. This will ensure that public services are not creating barriers to people accessing services and are responding appropriately to the needs of non-binary people.

The **Chief Statistician's guidance on the collection of data on sex, gender identity and trans status** was published in September 2021. We will monitor and review this guidance on an ongoing basis. The guidance does, however, provide flexibility for organisations to decide which data to collect depending on their particular circumstances.

Publication of this guidance followed an announcement from the then Cabinet Secretary for Social Security and Older People in 2019 that the Scottish Government would establish a working group on sex and gender in data. The group was led by the Chief Statistician and considered what guidance should be offered to public bodies on the collection and publication of data on sex and gender.

The Chief Statistician consulted widely in the development of the guidance. More than 20 meetings were held with external stakeholders, public facing events were held in early 2020, and around 80 organisations and individuals responded to a public consultation on draft guidance published in December 2020.

During this engagement the Chief Statistician met with representatives from several stakeholder organisations, individually, to hear their views and evidence. This included Scottish Trans, LGBT Youth Scotland, Stonewall Scotland, Engender, Close the Gap and others.

We know that the genderisation of facilities within public buildings can limit the accessibility, useability and safety of such facilities for non-binary people. We will explore how we can make sure that public buildings are accessible for non-binary people, as well as for other marginalised groups. It is important that work to improve this begins with gathering data and evidence on the barriers faced in this area, which will inform our work to review this issue.

We know that non-binary people face specific barriers when accessing crisis and support services but have little data on their specific needs and experiences. We will improve the data collected by crisis services so that we get a better understanding of this.

### Commitments

Our commitments reflect the recommendations of the Working Group on Non-Binary Equality. Where we accepted a recommendation, the wording of the commitment relating to that recommendation remains the same. Where we partially accepted a recommendation, our commitment reflects the aspects of the recommendation that we accepted. The numbering of the commitments reflects that of the recommendations. The commitments used to develop this section of the plan are as follows:

Commitment 17	Develop a plan to use the data from the trans status question used in Scottish Government core surveys and the Scottish Census to produce evidence on non-binary people in Scotland that can better inform policymaking, where possible.
Commitment 18	Support specific research and evidence-gathering with non-binary people in the absence of high enough response rates from non-binary people in population-level surveys.
Commitment 20	Produce clear guidance for service providers on the gathering of sex/gender information.

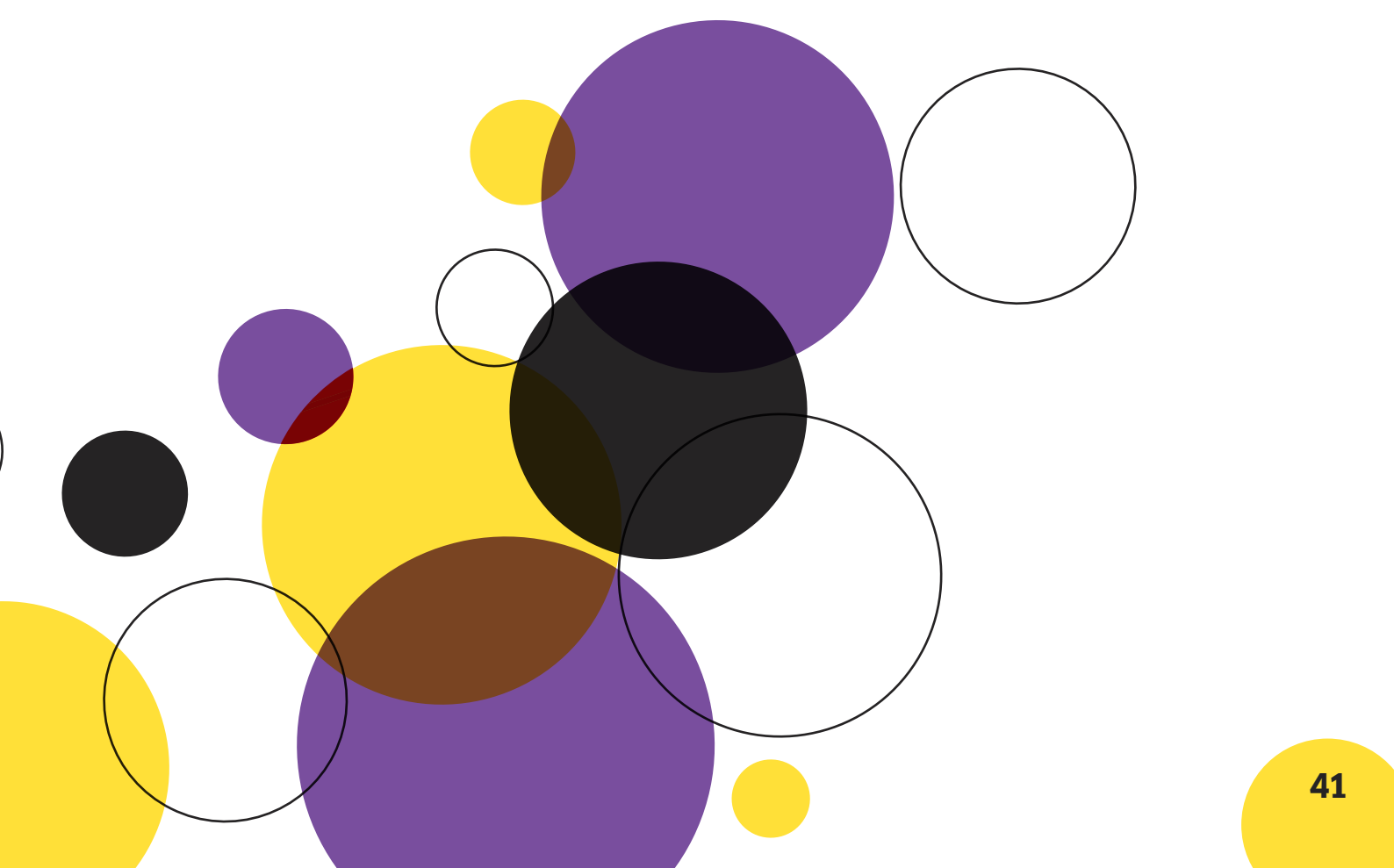


**Commitment 23** Review the Chief Statistician’s Sex and Gender in Data Guidance regularly, and ensure better inclusion of trans and non-binary people in the review process.

**Commitment 24** Commission expert research on non-binary legal recognition.

**Commitment 27** Gather evidence on the specific challenges and barriers trans and non-binary people face when accessing public spaces and the key regulatory levers to address this. Use this data to inform our approach to making buildings useable and accessible for all.

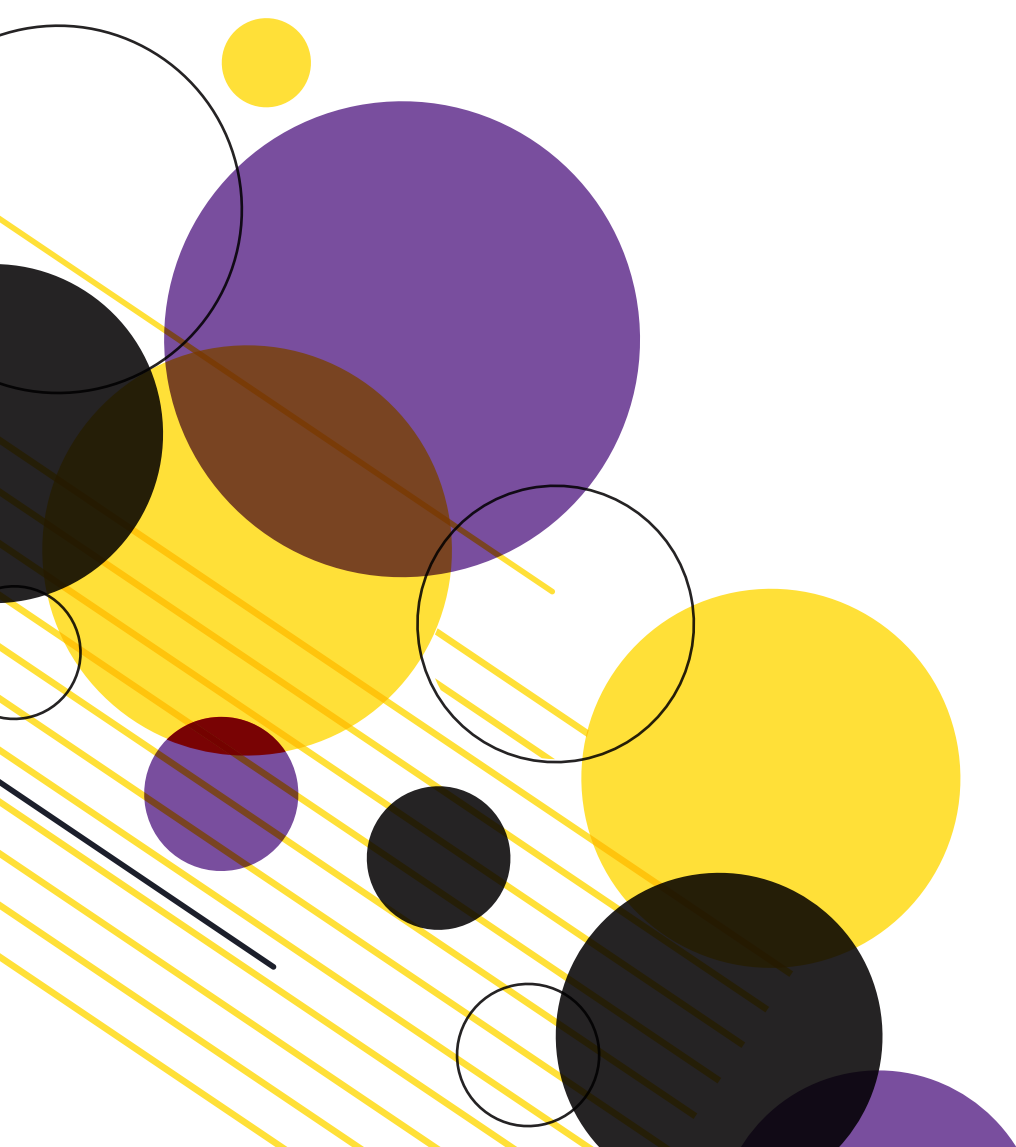
**Commitment 31** Improve data collection on sex/gender, sexual orientation and trans status within support and crisis services.



■ Data and Research

Actions	Commitment	Timescales	Impact	Partners
<p>7.1 Analysts in Scottish Government (SG) and National Records of Scotland (NRS) will work collaboratively to evaluate the emerging data from SG surveys that include the trans status question and develop a draft coding framework that can be used to analyse the outputs from the free text responses collected via the trans status question.</p>	<p>17</p>	<p>Short Term</p>	<p>This will improve our understanding of the lives of non-binary and trans people through evidence and research so that we can improve our evidence-based policy making for non-binary and trans people. There is an increasing awareness that taking an intersectional approach to research, policy making and operational decisions is important, as intersectionality can give insight into the experiences of different groups in society, and how particular characteristics can combine to impact on an individual's experiences.</p>	<p>National Records of Scotland</p>
<p>7.2 NRS to publish outputs on the trans status or history question from the 2022 Scotland's Census. This will include publishing an analytical report. This report will include more detailed analysis on this topic which may not be possible through the Flexible Table Builder due to Statistical Disclosure Control.</p>	<p>17</p>	<p>Short Term</p>		

Actions	Commitment	Timescales	Impact	Partners
7.3 The Office of the Chief Statistician (OCS) will promote the framework across teams that collect data using the trans status question to ensure a consistent approach to analysis and reporting.	17	Short Term		
7.4 OCS and NRS will monitor the use and effectiveness of the framework and the value of associated outputs.	17	Long Term		



Actions	Commitment	Timescales	Impact	Partners
7.5 We will carry out and publish a review of available quantitative and qualitative evidence on the experiences of non-binary people in Scotland.	18	Short Term	This will improve our understanding of the lives of non-binary and trans people through evidence and research so that we can improve our evidence-based policy making for non-binary and trans people.	Academics  Third sector equality organisations
7.6 Following 7.5, we will expand the range of evidence on non-binary people's experiences presented on the Equality Evidence Finder to include third sector and academic research. <sup>14</sup>	18	Long Term		
7.7 Following 7.5, we will engage with stakeholders to identify and agree priorities for filling evidence gaps.	18	Short Term		
7.8 Alongside 7.7, we will work with stakeholders to co-design research to fill priority gaps, working within available budget and other resource constraints.	18	Short Term		
7.9 We will publish a report of findings from the commissioned research in 7.8.	18	Medium Term		

<sup>14</sup> The **Equality Evidence Finder** brings together statistics and research for Scotland across different themes including for transgender status.

Actions	Commitment	Timescales	Impact	Partners
<p>7.10 We will publish guidance for public bodies, including recommended questions to ask, to gather information on sex and gender. This will include a question on trans status, where individuals are invited to complete a free response question to share their identity in their own words (including, for example, 'trans' or 'non-binary').</p>	20	Complete	<p>This will support the collection of data on non-binary and trans people so that we can improve our evidence-base for policy making and delivery of public services.</p>	
<p>7.11 We will monitor and review the guidance from 7.10 on an ongoing basis, allowing time for the guidance to be implemented before considering any changes.</p>	20	Medium Term		
<p>7.12 We will review how well the Chief Statistician's Sex and Gender in Data Guidance has been adopted and user engagement with stakeholders.</p>	23	Short Term	<p>This will improve our understanding of how public bodies are using the guidance and its impact on data being collected and published on non-binary and trans people.</p>	<p>National Records of Scotland</p> <p>Public bodies who routinely collect data for research or service delivery</p>

Actions	Commitment	Timescales	Impact	Partners
7.13 We will then plan to potentially update the Chief Statistician's Sex and Gender in Data Guidance and conduct further stakeholder feedback, if applicable.	23	Medium Term		Public Bodies who routinely collect data for research or service delivery  Academics  Third sector equality organisations
7.14 We will procure an external supplier to research legal recognition of non-binary people.	24	Short Term	This will enable us to understand how non-binary legal recognition could work in Scotland.	External researcher

Actions	Commitment	Timescales	Impact	Partners
<p>7.15 As explained in the Scottish Government response to Recommendation 27, we recognise that this recommendation needs to be considered far beyond the cited regulations.</p> <p>Accordingly, we will launch a ‘Call for Evidence’ seeking evidence and examples of barriers to accessing public buildings, including sport and leisure facilities, which will consider the accessibility, safety and dignity of non-binary people.</p>	27	Medium Term	This will enable any barriers to the provision and/or operation of usable and accessible public buildings in Scotland, to be identified and, if appropriate, removed (as far as is within our devolved competence).	<p>Local Authorities</p> <p>NHS Scotland</p> <p>Education Scotland</p> <p>Sportscotland</p> <p>UK Active</p> <p>Royal Institution of Architects in Scotland</p>
<p>7.16 We will commission research to identify and critically assess the current regulations, standards and guidance which act to influence the provision and/or operation of Scotland’s public buildings in a way that impacts trans and non-binary people.</p>	27	Medium Term		<p>Scottish Property Federation</p> <p>Federation of Small Businesses</p>

Actions	Commitment	Timescales	Impact	Partners
<p>7.17 Based on the outcomes of actions 7.15 and 7.16, we will review the relevant regulations, standards and guidance, that are within our devolved competence, to remove (as appropriate) identified barriers to accessing and using public buildings.</p>	<p>27</p>	<p>Medium Term</p>	<p>This will enable any barriers to the provision and/or operation of usable and accessible public buildings in Scotland, to be identified and, if appropriate, removed (as far as is within our devolved competence).</p>	<p>Local Authorities</p> <p>NHS Scotland</p> <p>Education Scotland</p> <p>Sportscotland</p> <p>UK Active</p> <p>Royal Institution of Architects in Scotland</p> <p>Scottish Property Federation</p> <p>Federation of Small Businesses</p>



Actions	Commitment	Timescales	Impact	Partners
<p>7.18 We will review the homelessness data collections to identify changes required to bring them up to date and address any gaps. This project will consider the feasibility of collecting sufficiently high quality data on sex/gender, sexual orientation and trans status.<sup>15</sup></p>	<p>31</p>	<p>Short Term</p>	<p>This will improve the data collected by crisis services in order to fully understand the needs and experience of individuals and groups.</p>	<p>Inspiring Scotland</p> <p>Local authority data providers</p> <p>Third sector organisations</p>
<p>7.19 We will work with Inspiring Scotland on their data capture project. As a first step, we will gather a range of data on people accessing Delivering Equally Safe (DES) and Equality and Human Rights (EHRF) funded services via a survey including data on sex, sexual orientation, trans status and non-binary status.</p>	<p>31</p>	<p>Short Term</p>		

<sup>15</sup> Any proposed changes to data collections will require agreement by the homelessness data review working group (made up of Scottish local authority representatives), with final decisions subject to Ministerial approval.

## ■ 5. Children and Young People

### Objective

Schools and support services have more inclusive processes and practices that take into account the needs of non-binary children and young people.

### Context

We must ensure that education is inclusive of non-binary children and young people and that teachers have the knowledge and skills to work with them, support them and include them. The **National LGBT Survey 2018** found that at schools across the UK, 13% of non-binary and trans respondents reported that most of their teachers and other school staff had been understanding to issues facing trans, gender-fluid and non-binary pupils, in general. In contrast, 68% said staff had been not very, or not at all, understanding. Of the participants who had transitioned while at school, non-binary people reported receiving less support from school (21%) compared to other transgender pupils (46% of trans men and 41% of trans women) when reflecting on their school experiences.

As part of our programme of work on Inclusive Education, we will evaluate its impact on non-binary children and young people and work collaboratively with them to do so. We will also work with the Scottish Education Management Information System provider (SEEMIS) to include a gender identity option to record non-binary pupils.

We will also make sure that LGBTQI+ children and young people have the opportunity to participate in our vision and delivery of the Bairns' Hoose in Scotland.

We remain absolutely committed to incorporating the United Nations Convention on the Rights of the Child into Scots Law within the powers of the Scottish Parliament, ensuring we are a country that respects, protects and fulfils children's rights. The United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Bill (UNCRC Bill) as originally passed could not receive Royal Assent due to a Supreme Court judgment that certain provisions were outwith the legislative competence of the Scottish Parliament. A motion to reconsider the Bill was passed by the Scottish Parliament on 14 September 2023 and the amendments to the Bill were formally lodged with the Parliament on 18 September 2023. The timetable for consideration of amendments is for Parliament to agree.

The UN Committee on the Rights of the Child's Interactive Dialogue session with the UK State party, including the devolved administrations, took place in Geneva on 18 and 19 May 2023. Following this session, the UN Committee published its **Concluding Observations** for the UK on 2 June 2023. These set out around 200 recommendations for taking forward children's rights across a wide range of policy areas, including recommendations which aim to ensure that children are protected from discrimination, bullying or harassment. The Scottish Government will publish its initial response to the UN Committee's Concluding Observations before the end of the year.

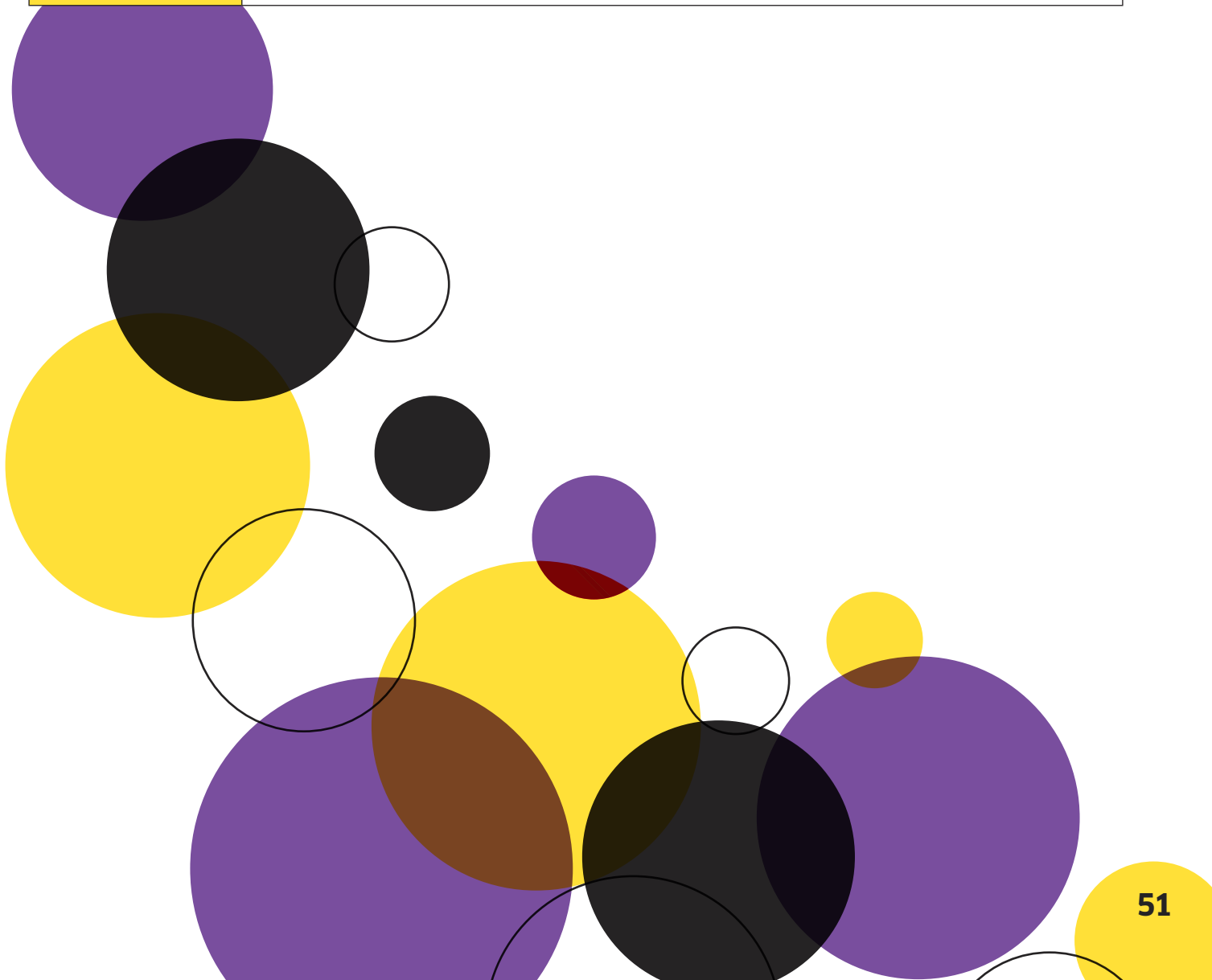
## Commitments

Our commitments reflect the recommendations of the Working Group on Non-Binary Equality. Where we accepted a recommendation, the wording of the commitment relating to that recommendation remains the same. Where we partially accepted a recommendation, our commitment reflects the aspects of the recommendation that we accepted. The numbering of the commitments reflects that of the recommendations. The commitments used to develop this section of the plan are as follows:

Commitment 29	Embed the needs of non-binary children, and all LGBTQI+ children, into the delivery of a Bairns' Hoose in Scotland.
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Commitment 34	Work with the developers of SEEMiS to explore adding options other than male or female for recording pupils and engage with SEEMiS and the Qualifications Authority to ensure there is relevant linking and updating of guidance for schools.
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Commitment 35	Evaluate the ongoing work of implementing LGBT Inclusive Education after one year, collaboratively with non-binary pupils, to investigate the specific impact of the work for them, and any changes needed to ensure that they equally benefit from the work in the future.
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**Children and Young People**

Actions	Commitment	Timescales	Impact	Partners
<p>8.1 We will publish a Participation and Engagement Plan for children and young people. This will describe how the voices of children, including LGBTQI+ children, will be embedded in the development delivery of Bairns' Hoose in Scotland.</p>	29	Short Term	<p>This 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>National Bairns' Hoose Governance Group</p> <p>Healthcare Improvement Scotland</p>
<p>8.2 We will complete a Children's Rights and Wellbeing Impact assessment on the Bairn's Hoose Project, which will be informed by engagement with LGBTQI+ organisations.</p>	29	Short Term		
<p>8.3 We will conduct an Equality Impact Assessment, which will help shape our policy development and understand the impacts of Bairns' Hoose on specific groups including LGBTQI+ children. This will be informed by engagement with LGBTQI+ organisations.</p>	29	Short Term		
<p>8.4 In conjunction with analytical colleagues we will set dates to meet with SEEMiS to explore options to ensure non-binary identities are recognised, while ensuring consistency across school data management systems.</p>	34	Short Term	<p>This will support non-binary young people to feel respected at school, reducing stress and encouraging them to participate equally as part of the school community.</p>	<p>SEEMiS</p> <p>Scottish Qualifications Authority (SQA)</p> <p>Scottish Government analytical teams</p>

Actions	Commitment	Timescales	Impact	Partners
<p>8.5 We will evaluate the implementation of LGBT inclusive education one year after full implementation, including the impact of implementation upon the understanding and opinions of trans and non-binary pupils and their cisgender peers towards gender stereotypes and diverse gender identities including non-binary identities.</p> <p>We will work with stakeholders to convene a focus group of non-binary young people to share their experiences of education since the implementation of LGBT inclusive education.</p>	<p>35</p>	<p>Short Term</p>	<p>This will improve understanding of barriers faced by non-binary young people in education and the impact on them of inclusive education.</p> <p>This will demonstrate whether LGBT inclusive education is proving effective in improving pupils' and teachers' understanding of the barriers faced by non-binary young people in education. The focus group will gauge the direct impact of LGBT inclusive education on non-binary learners; while the wider evaluation of LGBT inclusive education will gauge the indirect impact of implementation in creating more positive learning environments for non-binary learners through increasing respect and understanding of non-binary identities among their peers and educators.</p>	<p>LGBT Inclusive Education Implementation Group</p>

6. Sport

**Objective**

Non-binary people increasingly feel welcomed and able to take part in sport.

**Context**

We will be supporting sportscotland to raise awareness on transgender inclusion in sport through learning and training opportunities and to support those governing bodies that want to develop new policies for transgender participation in their sport. This will enable Scottish governing bodies of sport to review and develop their policies in line with the needs of their sport and think about innovative and creative ways to ensure nobody is left out.

**Commitments**

Our commitments reflect the recommendations of the Working Group on Non-Binary Equality. Where we accepted a recommendation, the wording of the commitment relating to that recommendation remains the same. Where we partially accepted a recommendation, our commitment reflects the aspects of the recommendation that we accepted. The numbering of the commitments reflects that of the recommendations. The commitment used to develop this section of the plan is as follows:

**Commitment 33** Support sportscotland to reduce barriers to trans and non-binary people’s participation in sport.

■ Sport

Actions	Commitment	Timescales	Impact	Partners
<p>9.1 We will support our national agency for sport, sportscotland, to deliver workshops and learning development opportunities to Scottish governing bodies of sport on the guidance for transgender participation in domestic sport. This will include encouraging sports to think in innovative and creative ways to ensure nobody is left out, and recommend meaningful and respectful consultation in developing sport-specific guidance.</p>	<p>33</p>	<p>Short Term</p>	<p>This 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>sportscotland</p>
<p>9.2 We will support our national agency for sport, sportscotland, to allocate resources to offer one-to-one support to sports governing bodies that want to develop new policies for transgender participation in their sport.</p>	<p>33</p>	<p>Short Term</p>		

## Appendix 1 – Consider Further Recommendations

In July 2022, the Scottish Government responded to the Working Group on Non-Binary Equality’s report and recommendations. In that response, we committed to considering eight of the recommendations further where the recommendation and its impact was not fully understood at the time or its feasibility could not be established before publication. These recommendations were further evaluated over the following months and decisions have been made to either accept, partially accept, or decline these recommendations.

For each recommendation, we have set out the Scottish Government’s decision followed by a brief rationale. Our decisions are categorised into three types:

### Accept

The recommendation is within our devolved competence, consistent with the Scottish Government’s policy objectives and otherwise achievable.

### Partially Accept

The recommendation is agreed in principle but not to the full extent suggested by the Group.

### Decline

The recommendation is not consistent with the Scottish Government’s overall policy objectives; or not achievable.

A summary of our decisions is below:

Decisions	
Accept	3
Partially Accept	4
Decline	1
TOTAL	8

Actions based on these recommendations have been consolidated and included in the wider Non-Binary Equality Action Plan.



## DECISIONS

### ■ Recommendation 4

Fund transition-related healthcare sustainably, in the long term, and beyond the existing Gender Identity Clinics.

#### Decision:

Partially Accept

#### Scottish Government Response

Scottish Government has provided funding directly to NHS health boards with a gender identity clinic to support work to reduce waiting times and improve services.

Following this year's Scottish Budget, a total of £2 million has been allocated for NHS gender identity service improvement this financial year.

Scottish Government is unable to comment on the content of future spending reviews. Further consultation with health boards will be required to embed a sustainable funding model for gender identity healthcare across NHS Scotland, beyond 2024.

### ■ Recommendation 12

Desegregate treatment pathways so that interventions that are available via a GP referral for cisgender patients are similarly available via a GP referral for trans patients.

#### Decision:

Partially Accept

#### Scottish Government Response

GPs will make different referrals for different patients, based on clinical need.

We are expanding the wider multi-disciplinary workforce in primary care which means referrals can now be made by clinicians other than GPs. These referrals may be to other areas of primary care, such as musculoskeletal physiotherapy, or to parts of the secondary care sector, depending on local arrangements.

Work is ongoing with relevant stakeholders with lived experience to ensure treatment pathways for trans patients are equitable. Scottish Government has also commissioned Healthcare Improvement Scotland to produce national standards for accessing and delivery of gender identity healthcare. The role of primary care was part of the **draft scope for standards development** publicly consulted on early this year.

## ■ Recommendation 17

Develop a plan to use the data from the trans status question used in Scottish Government core surveys and the Scottish Census to produce evidence on non-binary people in Scotland that can better inform policymaking.

### Decision:

Accept

### Scottish Government Response

We accept that it is important to have data on the non-binary population so that this can be used to drive change and improvements for the benefit of society, including non-binary individuals.

The Chief Statistician's guidance recommends that data on non-binary people is collected using a question on trans status that invites individuals to write in how they identify in their own words.

Officials from Scottish Government and National Records of Scotland will work together to analyse non-binary response data collected in our core surveys and the Census, with the aim of building a robust evidence base that can be used to inform decision-making and support policy development.

The level of detail published will be dependent on the number of responses provided to this voluntary question to ensure that data published is not disclosive and that results are robust. The scope of this work will become clear when the data is available.

## ■ Recommendation 21

Review IT systems, particularly in healthcare settings, to identify and remove barriers to non-binary people accessing services.

### Decision:

Partially Accept

### Scottish Government Response

We accept the principle of identifying and removing barriers to non-binary people accessing services. Our Strategy for Digital, 'A changing nation: how Scotland will thrive in a digital world' clearly articulates a commitment to creating an ethical digital nation where public services are designed through the lens of inclusion and the needs of users. Within healthcare, our recently published Digital Health and Care Strategy, and Data Strategy for Health and Care, make a specific commitment to taking a human-rights based approach and confirm our aim generally to support people in gaining increased access to the information held about them, and the ability to update this where appropriate. We are working with our delivery partners in support of the Data Strategy to develop its priorities in the coming year and will actively explore how this can be realised from the perspective of non-binary requirements.

We also recognise the scale and complexity of the systems that support Scotland's health and social care services, and the need to fully understand their interaction. The scale and complexity of a comprehensive review across the thousands of existing public sector IT systems would be prohibitive. However, we have already committed to a review of the CHI number as the fundamental coding in the health and care system, to explore how this could be made non-binary, enabling trans people to be recognised in medical records. This more focused work is likely to identify how healthcare IT systems utilise CHI and, therefore, how and whether they are gendered, providing a significant degree of insight into the requirements of Recommendation 21.

We will also explore how the overall Digital Scotland Service Standard can be updated to include a specific commitment that the design and development of future IT systems and services considers how barriers to non-binary people are identified and removed.

### ■ Recommendation 22

Include a non-binary response option in the recommended sex question in the next update to the Chief Statistician's Sex and Gender in Data Guidance.

#### **Decision:**

Decline

#### **Scottish Government Response**

The recommended question on trans status in the Chief Statistician's Sex and Gender in Data Guidance allows non-binary respondents to record they are non-binary.

Although we accept that the Guidance will need to undergo a process of review and refresh, updating this is not an immediate priority. Time is needed to allow the Guidance to bed in before we can consider the effectiveness of the trans status question at collecting data on non-binary people.

The existing Guidance will be reviewed on an ongoing basis to ensure that it remains fit for purpose.

### ■ Recommendation 23

Review the Chief Statistician's Sex and Gender in Data Guidance regularly and ensure better inclusion of trans and non-binary people in the review process.

#### **Decision:**

Accept

#### **Scottish Government Response**

The Chief Statistician adopted a robust and transparent approach to developing guidance for public bodies to use to inform how they gather data, including on the non-binary population.

This involved meeting with external stakeholders, equality groups and campaigners, members of the public and seeking the views of his working group members. The Chief Statistician considered and weighed up these various views when coming to a decision on the recommended questions in the guidance.

The guidance will be reviewed on an ongoing basis to ensure that it remains fit for purpose. Time is needed to allow the guidance to bed in before we can consider the impact that the trans status question has had on the collection of data on non-binary people.

We are keen to ensure that we can identify and engage with a breadth of stakeholders who will have an interest in this work, including trans and non-binary people, to seek their views and experiences.

### ■ Recommendation 26

Review the use of, and take action to remove, unnecessary gender markers from identity documents, including by working with the UK Government to take action where ID is administered on a UK-wide basis

#### **Decision:**

Accept

#### **Scottish Government Response**

Action to review is already underway. The National Entitlement Card, which is sponsored by Scottish Government and issued by Local Authorities, does not display visible gender markers.

The Scottish Government is developing a reusable Digital Identity service which would reduce the need for repeated use of traditional identity documentation and reduce the need for organisations to verify and store unnecessary information about individuals.

### ■ Recommendation 30

Include non-binary people in Scottish Government strategies, policy frameworks, and resource allocation designed to eradicate gender-based violence

#### **Decision:**

Partially Accept

#### **Scottish Government Response**

The recommendation will be a long-term commitment as it requires further research and engagement with a range of stakeholders from the Violence against Women and Girls (VAWG) sector and non-binary people.

The Scottish Government welcomes that the working group supports the Scottish Government's focus on women and girls within our policies which work to eradicate gender-based violence, which evidence shows is most commonly perpetrated by men and experienced by women.

We will continue to work across the VAWG and LGBTQI+ sectors to ensure that the support needs of non-binary people experiencing gender-based violence are fully understood.

## Appendix 2 – Glossary of Terms

**Cisgender/Cis** is a descriptor for people who do identify with the sex they were assigned at their birth.

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

**Equality Act 2010** is legislation which prohibits unlawful discrimination, harassment and victimisation on the grounds of nine protected characteristics, including gender reassignment.

**Gender expression** is a person's outward presentation of their gender identity.

**Gender identity** is a person's innate sense of their own gender.

**Gender reassignment** is a protected characteristic in the Equality Act 2010 which relates to people who are proposing to undergo, are undergoing or have undergone a process to reassign their sex. The Equality and Human Rights Commission states that to be protected from gender reassignment discrimination, you do not need to have undergone any medical treatment or surgery to change from your birth sex to your preferred gender.<sup>16</sup>

**'Intersex', 'Variations in Sex Characteristics', 'Differences in Sex Development'** are terms for people born with any of several variations in sex characteristics including chromosomes, sex hormones or primary sex characteristics that, according to the Office of the United Nations High Commissioner for Human Rights, "do not fit the typical definitions for male or female bodies".<sup>17</sup>

**LGBTQI+** is an acronym used to describe a community of people who identify as lesbian, gay, bisexual, transgender, queer/questioning, intersex and/or other terms under the LGBTQI+ umbrella.

**Mainstreaming** is the process of embedding equality, inclusion and human rights considerations and practices in the course of all that we do when exercising public functions.<sup>18</sup>

**Multiply Marginalised/Intersectionality** is a term that recognises that people can experience compound discrimination, when multiple dimensions and systems of inequality interact with one another and create distinct experiences and outcomes. For example, an older gay person may face homophobia, ageism, both, or inequality that is specific to their intersecting characteristics of being both older and gay. Intersectionality aims to understand how different people's experiences are shaped where multiple forms of oppression or disadvantage interact.<sup>19</sup>

<sup>16</sup> [Gender reassignment discrimination | Equality and Human Rights Commission \(equalityhumanrights.com\)](https://www.equalityhumanrights.com/)

<sup>17</sup> [Intersex people | OHCHR](https://www.ohchr.org/)

<sup>18</sup> [Equality outcomes and mainstreaming report 2023 - gov.scot \(www.gov.scot\)](https://www.gov.scot/)

<sup>19</sup> [What is meant by the concept of 'intersectionality'? - Using intersectionality to understand structural inequality in Scotland: evidence synthesis - gov.scot \(www.gov.scot\)](https://www.gov.scot/)

**Non-binary** is a descriptor for people who have a gender identity that is not exclusively male or exclusively female. Other terms to describe non-binary genders are genderqueer, gender-fluid, or agender among many others. Non-binary people may express their gender in a variety of ways, including matching the sex assigned to them at birth, or completely different from it.

**Pronouns** are a part of everyday speech used as substitutes for nouns or noun phrases. A common use would be for referring to a person instead of their name, for example you, I, he, she, and they. Everyone uses pronouns. Sometimes transitioning includes changing pronouns.

**Transitioning** is a process in which people take steps to affirm the gender they identify as. This transition may involve all, some or none of the following procedures: changing names, changing pronouns, changing their appearance, changing their hairstyle, dressing differently, undertaking medical treatment, undertaking surgical procedures or obtaining legal certification of their gender. Transitioning is not always a continuous process and may have no defined start or end.

**Transgender/Trans** is a descriptor for people who do not fully identify with the sex assigned at their birth. The shortened adjective 'trans' is used for a range of identities, including trans men, trans women and non-binary people.

## Appendix 3 – Action Summary Table

Theme	Action	Timing		
		Short Term	Medium Term	Long Term or Ongoing
		-	-	-
		End of 2024	End of 2026	End of 2028
1. Participation in Decision-Making	1.1 We will develop guidance and a process for paying participant expenses and compensating participants for their time when taking part in projects.	X		
	1.2 We will seek to influence Department for Work and Pensions (DWP) with the aim that payment for involvement in participatory projects does not negatively impact those who are claiming DWP benefits.	X		
	1.3 We will continue to improve the Scottish Government’s Participation Framework, starting with a focus on improving its coverage of inclusive practice.	X		
<b>Healthcare</b>				
2. Transition-Related Healthcare	See Strategic Action Framework for NHS Gender Identity Service Improvement for ongoing work to improve transition-related healthcare. As our framework runs until late 2024, we envisage that most of the work will be completed in the short term (end of 2024) with the rest in the medium term (end of 2026).			
3. Mental Health and Primary Care	3.1 We will work with NHS Boards, councils and integration authorities 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.		X	

Theme	Action	Timing		
		Short Term	Medium Term	Long Term or Ongoing
		-	-	-
		End of 2024	End of 2026	End of 2028
	<p>3.2 We are developing quality standards to support general adult secondary mental health services. These are being created as part of a suite of standards and specifications for mental health services (including Psychological Therapies and Interventions and Eating Disorders), building on the work of the CAMHS service and neurodevelopmental specifications.</p> <p>The standards have an equalities, human rights and person-centred approach at their centre. We expect them, alongside strengthened local accountability, to support how health inequalities are addressed at a local level and effect change to mental health service delivery.</p>		X	
	<p>3.3 We will continue to develop 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. This will ensure that they address both the challenges facing the mental health and wellbeing workforce as well as ensuring that the workforce are supporting the needs of trans and non-binary people.</p>		X	



Theme	Action	Timing		
		Short Term	Medium Term	Long Term or Ongoing
		-	-	-
		End of 2024	End of 2026	End of 2028
	3.4 Improve Equality, Diversity and Inclusion training for the Mental Health and Wellbeing workforce to incorporate up to date messaging within existing training and relevant information on equalities, including non-binary, transgender and LGBTQI+ equality.		X	
	3.5 We will look closely at developing capability and capacity in the completion of Equality Impact Assessments (EQIAs) as part of the programme of equalities and human rights work being taken forward in the Scottish Government’s Mainstreaming Strategy.	X		
	3.6 We will put in place structures within the Mental Health Directorate to ensure we meet Commitment 9 going forward as part of the programme of work being taken forward by the Mental Health Equality Champion Network.	X		
	3.7 We have commissioned NHS Education Scotland to develop a transgender healthcare knowledge and skills framework for NHS Scotland staff, including those working in primary care and mental health services.		X	

Theme	Action	Timing		
		Short Term	Medium Term	Long Term or Ongoing
		-	-	-
		End of 2024	End of 2026	End of 2028
4. Fertility Preservation	4.1 We will develop patient information leaflets for fertility preservation by 2024.	X		
	4.2 We will finalise and implement the fertility preservation guidance for all groups of patients that may require access by 2024.	X		
	4.3 NHS Inform will be updated with information on fertility treatments (assisted reproduction services) that are available for trans and non-binary people in Scotland by 2024.	X		
	4.4 Fertility Scotland National Network will arrange training webinars once the fertility preservation guidance has been published for early 2024.	X		
<b>Legislation, Guidance, Access to Services and IT Systems</b>				
5. Legislation, Guidance and Access to Services	5.1 We will produce guidance for individuals, including for trans and non-binary people, on how to change your name in Scotland.	X		
	5.2 Trans and non-binary inclusion issues will continue to be considered as we continuously review our internal Equality Impact Assessment (EQIA) guidance. In live training and coaching sessions, we will explicitly prompt policy teams to consider impacts on trans and non-binary people when conducting EQIAs. This will ensure that their needs are actively and thoughtfully addressed, upholding their rights under the Equality Act 2010.		X	

Theme	Action	Timing		
		Short Term	Medium Term	Long Term or Ongoing
		-	-	-
		End of 2024	End of 2026	End of 2028
	5.3 We will continue to follow the ongoing policy to use gender neutral language in all legislative drafting. The latest published edition of the drafting guidance, <b>Drafting Matters!</b> , includes an express reference to non-binary people in regards to the use of gender-specific pronouns as well as alternatives to gender-specific nouns.		X	
	5.4 We will develop a reusable Digital Identity Service, which would reduce the need for repeated use of traditional identity documentation, which may include gender markers, and reduce the need for organisations to verify and store unnecessary information about individuals when providing services to them.		X	
	5.5 We will assess the suitability of emerging UK and International frameworks for the development of standards based digital identities.	X		
	5.6 We will explore non-binary people’s experience of the continuum of gender-based violence in order to develop a greater understanding on which to build an evidence-based approach to policy making, service provision and funding.	X		
	5.7 We will consult with VAWG and LGBTQI+ organisations within the engagement process of the Equally Safe strategy refresh.	X		

Theme	Action	Timing		
		Short Term	Medium Term	Long Term or Ongoing
		-	-	-
		End of 2024	End of 2026	End of 2028
6. IT Systems	6.1 We will complete an initial review with relevant policy colleagues and the Chief Medical Officer (CMO) by end April 2024 to understand how the demographic information held in the new CHI system might reflect the range of non-binary definitions, and explore options, including in other core health systems.	X		
	6.2 We will complete a review with the Chief Medical Officer by end April 2024 in the context of Scotland's Data Strategy for Health and Social Care on the wider clinical impact of amendments to the CHI number.	X		
	6.3 We will complete a review by end December 2023 on lessons learned from our current work on the new CHI project.	X		
	6.4 We will ensure that new online services have assessed the needs and impacts of the services on non-binary people. New online services are independently assessed to ensure they follow set standards. This assessment will review the approach the team have taken and ensure that any actions identified for non-binary people have been followed through.		X	

Theme	Action	Timing		
		Short Term	Medium Term	Long Term or Ongoing
		-	-	-
		End of 2024	End of 2026	End of 2028
7. Data and Research	7.1 Analysts in Scottish Government (SG) and National Records of Scotland (NRS) will work collaboratively to evaluate the emerging data from SG surveys that include the trans status question and develop a draft coding framework that can be used to analyse the outputs from the free text responses collected via the trans status question.	X		
	7.2 NRS to publish outputs on the trans status or history question from the 2022 Scotland’s Census. This will include publishing an analytical report. This report will include more detailed analysis on this topic which may not be possible through the Flexible Table Builder due to Statistical Disclosure Control.	X		
	7.3 The Office of the Chief Statistician (OCS) will promote the framework across teams that collect data using the trans status question to ensure a consistent approach to analysis and reporting.	X		
	7.4 OCS and NRS will monitor the use and effectiveness of framework and the value of associated outputs.			X
	7.5 We will carry out and publish a review of available quantitative and qualitative evidence on the experiences of non-binary people in Scotland.	X		

Theme	Action	Timing		
		Short Term	Medium Term	Long Term or Ongoing
		-	-	-
		End of 2024	End of 2026	End of 2028
	7.6 Following 7.5, we will expand the range of evidence on non-binary people’s experiences presented on the Equality Evidence Finder to include third sector and academic research.			X
	7.7 Following 7.5, we will engage with stakeholders to identify and agree priorities for filling evidence gaps.	X		
	7.8 Alongside 7.7, we will work with stakeholders to co-design research to fill priority gaps, working within available budget and other resource constraints.	X		
	7.9 We will publish a report of findings from the commissioned research in 7.8.		X	
	7.10 We will publish guidance for public bodies, including recommended questions to ask, to gather information on sex and gender. This will include a question on trans status, where individuals are invited to complete a free response question to share their identity in their own words (including, for example, ‘trans’ or ‘non-binary’).	Complete		
	7.11 We will monitor and review the guidance from 7.10 on an ongoing basis, allowing time for the guidance to be implemented before considering any changes.		X	

Theme	Action	Timing		
		Short Term	Medium Term	Long Term or Ongoing
		-	-	-
		End of 2024	End of 2026	End of 2028
	7.12 We will review how well the Chief Statistician’s Sex and Gender in Data Guidance has been adopted and user engagement with stakeholders.	X		
	7.13 We will then plan to potentially update the Chief Statistician’s Sex and Gender in Data Guidance and conduct further stakeholder feedback, if applicable.		X	
	7.14 We will procure an external supplier to research legal recognition of non-binary people.	X		
	7.15 As explained in the Scottish Government response to Recommendation 27, we recognise that this recommendation needs to be considered far beyond the cited regulations. Accordingly, we will launch a ‘Call for Evidence’ seeking evidence and examples of barriers to accessing public buildings, which will consider the accessibility, safety and dignity of non-binary people and other marginalised groups.		X	
	7.16 We will commission research to identify and critically assess the current regulations, standards and guidance which act to influence the provision and/or operation of Scotland’s public buildings in a way that impacts trans and non-binary people.		X	

Theme	Action	Timing		
		Short Term	Medium Term	Long Term or Ongoing
		-	-	-
		End of 2024	End of 2026	End of 2028
	7.17 Based on the outcomes of actions 7.15 and 7.16, we will review the relevant regulations, standards and guidance, that are within our devolved competence, to remove (as appropriate) identified barriers to accessing and using public buildings.		X	
	7.18 We will review the homelessness data collections to identify changes required to bring them up to date and address any gaps. This project will consider the feasibility of collecting sufficiently high quality data on sex/gender, sexual orientation and trans status.	X		
	7.19 We will work with Inspiring Scotland on their data capture project. As a first step, we will gather a range of data on people accessing Delivering Equally Safe (DES) and Equality and Human Rights (EHRF) funded services via a survey including data on sex, sexual orientation, trans status and non-binary status.	X		
8. Children and Young People	8.1 We will publish a Participation and Engagement Plan for children and young people. This will describe how the voices of children, including LGBTQI+ children, will be embedded in the development delivery of Bairns' Hoose in Scotland.	X		



Theme	Action	Timing		
		Short Term	Medium Term	Long Term or Ongoing
		-	-	-
		End of 2024	End of 2026	End of 2028
	8.2 We will complete a Children’s Rights and Wellbeing Impact assessment on the Bairn’s Hoose Project, which will be informed by engagement with LGBTQI+ organisations.	X		
	8.3 We will conduct an Equality Impact Assessment, which will help shape our policy development and understand the impacts of Bairns’ Hoose on specific groups including LGBTQI+ children. This will be informed by engagement with LGBTQI+ organisations.	X		
	8.4 In conjunction with analytical colleagues we will set dates to meet with SEEMiS to explore options to ensure non-binary identities are recognised, while ensuring consistency across school data management systems.	X		

Theme	Action	Timing		
		Short Term	Medium Term	Long Term or Ongoing
		-	-	-
		End of 2024	End of 2026	End of 2028
	<p>8.5 We will evaluate the implementation of LGBT inclusive education one year after full implementation, including the impact of implementation upon the understanding and opinions of trans and non-binary pupils and their cisgender peers towards gender stereotypes and diverse gender identities including non-binary identities.</p> <p>We will work with stakeholders to convene a focus group of non-binary young people to share their experiences of education since the implementation of LGBT inclusive education.</p>	X		

Theme	Action	Timing		
		Short Term	Medium Term	Long Term or Ongoing
		-	-	-
		End of 2024	End of 2026	End of 2028
9. Sport	9.1 We will support our national agency for sport, sportscotland, to deliver workshops and learning development opportunities to Scottish governing bodies of sport on the guidance for transgender participation in domestic sport. This will include encouraging sports to think in innovative and creative ways to ensure nobody is left out, and recommend meaningful and respectful consultation in developing sport-specific guidance.	X		
	9.2 We will support our national agency for sport, sportscotland, to allocate resources to offer one-to-one support to sports governing bodies that want to develop new policies for transgender participation in their sport.	X		



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